

**VOLUME I OF II, PAGES A1 TO A448**

Miscellaneous Docket No. \_\_\_\_\_

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**United States Court of Appeals  
for the Federal Circuit**

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IN RE TWITTER, INC., APPLE INC., MOTOROLA MOBILITY LLC,  
HTC CORPORATION, HTC AMERICA, INC., LG ELECTRONICS, INC.,  
LG ELECTRONICS U.S.A., INC., and  
LG ELECTRONICS MOBILECOMM U.S.A., INC.,

*Petitioners.*

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*On Petition for Writ of Mandamus to the United States District Court  
for the Northern District of Texas, Wichita Falls Division  
Case Nos. 7:14-cv-00014-O and 7:14-cv-00106-O  
Honorable Reed O'Connor*

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**APPENDIX IN SUPPORT OF PETITION  
FOR WRIT OF MANDAMUS**

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Patent Nos. 6,895,557 (“the ’557 Patent”), 7,765,482 (“the ’482 Patent”), and 8,612,515 (“the ’515 Patent”) (collectively, the “Patents-in-Suit”). The ’557 Patent is entitled “Web-based Media Submission Tool,” and relates to “the handling, manipulation and processing of digital content and more particularly to the transportation and Internet publishing of digital content, particularly image media objects and rich media.” *See* U.S. Patent No. 6,895,557 col. 1 l. 11-12 (filed July 21, 1999). The ’482 Patent is a continuation of the earlier ’557 Patent, and is also entitled “Web-based Media Submission Tool,” and relates to “the handling, manipulation and processing of digital content.” *See* U.S. Patent No. 7,765,482 col. 1 l. 11-12 (filed October 8, 2004). The ’515 Patent is entitled “System, Method and Apparatus for Media Submission,” and, like the ’557 and ’482 Patents, relates to “the handling, manipulation and processing of digital content and more particularly to the transportation and Internet publishing of digital content, particularly image media objects and rich media.” *See* U.S. Patent No. 8,612,515 col. 1 l. 11-12 (filed April 29, 2011).

In 2011, Summit 6 sued defendants Research in Motion Corp., Research in Motion Ltd., Samsung Electronics Co., Ltd., Samsung Telecommunications America LLC, Multiply Inc., and Facebook Inc. for infringing the ’482 Patent and the ’557 Patent in the Northern District of Texas. *See Summit 6 LLC v. Research in Motion Corp., et al.*, No. 3:11-cv-367-O. During the pendency of the case, the Court reviewed the technology, construed the ’557 and ’482 Patents, ruled on various evidentiary issues, presided over a jury trial on infringement and validity, and held a separate non-jury trial on inequitable conduct relating to the ’482 Patent. The jury found infringement and awarded Summit 6 \$15 million in damages. The Court entered judgment in favor of Summit 6 and the case is currently on appeal. *See Summit 6 LLC v. Samsung Electronics Co., Ltd.*, Federal Circuit Appeal No. 13-648.

On February 18, 2014, Summit 6 filed this patent infringement lawsuit alleging infringement of the '557 and '482 Patents, as well as the '515 Patent, against application developer Twitter, Inc. ("Twitter") and four mobile device manufacturers and their affiliates, namely, Apple Inc. ("Apple"), HTC Corporation and HTC America, Inc. (collectively, "HTC"), LG Electronics, Inc., LG Electronics USA, Inc., and LG Electronics MobileComm USA, Inc. (collectively, "LGE"), and Motorola Mobility LLC ("Motorola"). The gravamen of Summit 6's lawsuit is that Defendants are using Summit 6's patented technology without permission to produce and sell devices and/or operate online services capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location. *See generally* First Amended Compl., ECF No. 6. Summit 6 alleges that all Defendants have infringed, and continue to infringe, directly, contributorily, and/or through the inducement of others, the claim inventions of the '482 Patent and the '515 Patent. *See id.* As to Twitter, Summit 6 alleges that Twitter has infringed, and continues to infringe, directly, contributorily, and/or through the inducement of others, the claim inventions of the three Patents-in-Suit through certain of its upload services. *See id.* ¶¶ 107-119, 205-217, 219-230. Twitter's accused upload services include "the Twitter Application for iPhone, the Twitter Application for iPad, the Twitter Application for Android Tablet, and any other Twitter Application capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the Twitter content upload functionality integrated into the native sharing options for iOS and Android devices; Twitter's [Application Programming Interfaces] APIs related to obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; Twitter's mobile website; and Twitter's website-related infrastructure." *See id.* ¶¶ 107, 205, 219. As to the mobile device manufacturers, Summit 6 alleges infringement of the '482 Patent and the '515 Patent based on each

device's messaging technology, including use of "MMS functionality," "Message-related APIs," "the integrated Twitter content upload functionality," and "MMS-to-Twitter functionality." *See id.* ¶¶ 23, 35, 47, 59, 71, 83, 95, 121, 133, 145, 153, 169, 181, 193. Summit 6 seeks injunctive relief, as well as damages, attorney's fees and costs.

Defendants deny infringement and have asserted the affirmative defense that the Patents-in-Suit are invalid, and, with regard to the '482 and '515 Patents, that the Patents are unenforceable due to inequitable conduct of the inventors and prior owners of these patents. Defendants Motorola, Twitter and HTC have also filed counterclaims for declaratory judgment of non-infringement and invalidity of the Patents-in-Suit. *See generally* Apple Inc.'s Ans. & Aff. Def., ECF No. 49; Def. Motorola's Ans. & Countercl., ECF No. 51; Twitter, Inc.'s Ans. & Countercl., ECF No. 53; Ans. & Aff. Def. & Countercl. of HTC Def., ECF No. 66; Ans. of LGE Def., ECF No. 64.

Plaintiff Summit 6 is a Delaware limited liability company with its principal place of business in Dallas, Texas. First Amended Compl. ¶¶ 219-230; App. Supp. Resp. Ex. 4 (Pate Decl.) ¶¶ 12-18, ECF No. 118-1. Defendants' places of incorporation and principal places of business are scattered. Defendant Apple is a California corporation with its headquarters in Cupertino, California, which is in the Northern District of California.. App. Supp. Mot. Transfer Ex. 240 (Buckley Decl.) ¶ 5, ECF No. 91-5. Defendant Twitter is a Delaware corporation with its principal place of business in San Francisco, California, which is in the Northern District of California. *Id.* Ex. 238 (Axelsen Decl.) ¶ 4. Defendant HTC Corporation is a Taiwanese corporation with its principal place of business in Taiwan, ROC. *Id.* Ex. 249 (Bariault Decl.) ¶ 2. Defendant HTC America, Inc. is incorporated in Washington and has its principal place of business in Bellevue, Washington. *Id.* Defendant LG Electronics Mobilecomm U.S.A., Inc. ("LGE MobileComm") is a

California corporation with its headquarters in San Diego, California, which is in the Southern District of California. *Id.* Ex. 297 (Son Decl.) ¶ 3. Defendant LG Electronics, Inc. (“LGE Inc.”) is a Korean company with its headquarters in Seoul, South Korea. *Id.* ¶ 4. Defendant LG Electronics USA, Inc. is a wholly-owned subsidiary of LGE Inc., and has a warehouse facility in Fort Worth, Texas. *Id.* ¶¶ 4, 21-22. Defendant Motorola is a Delaware limited liability company with its principal place of business in Chicago, Illinois. *Id.* Ex. 245 (Brown Decl.) ¶ 3.

Defendants move to transfer all proceedings against them to the Northern District of California under 28 U.S.C. § 1404(a). In the event the Court denies the motion to transfer venue, Apple has filed a contingent motion to sever and transfer. The motions have been fully briefed and are ripe for adjudication.

## **II. MOTION TO TRANSFER VENUE**

### **A. Legal Standard**

Under 28 U.S.C. § 1404(a), a district court may transfer any civil case “[f]or the convenience of the parties and witnesses, in the interest of justice . . . to any other district or division where it might have [originally] been brought.” The decision to transfer a pending case is committed to the sound discretion of the district court. *Jarvis Christian Coll. v. Exxon Corp.*, 845 F.2d 523, 528 (5th Cir. 1988).

A threshold inquiry is whether the suit “might have been brought” in the proposed transferee district. *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 312 (5th Cir. 2008) (en banc) (*Volkswagen II*). Once a defendant satisfies that burden, the Court weighs certain factors to determine if transfer is warranted. *Id.* n.9; *see also Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 507-08 (1947). “It is well settled that the party moving for a change of venue bears the burden of demonstrating why the forum



should be changed.” *Dupre v. Spanier Marine Corp.*, 810 F. Supp. 823, 825 (S.D. Tex. 1993). Placing the burden on the moving party to show “good cause” for the transfer “reflects the appropriate deference to which the plaintiffs’ choice of venue is entitled.” *Volkswagen II*, 545 F.3d at 315. The burden on the movant is “significant,” and for a transfer to be granted, the transferee venue must be “clearly more convenient than the venue chosen by the plaintiff.” *Id.*

When considering whether to grant a motion to transfer venue, courts must consider a series of public and private interest factors, none of which is dispositive. *Id.* “The private interest factors are: ‘(1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing witnesses; and (4) all other practical problems that make trial of a case easy, expeditious, and inexpensive.’” *Id.* (quoting *In re Volkswagen AG*, 371 F.3d 201, 203 (5th Cir. 2004) (*Volkswagen I*) (citing *Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 241 (1981))). “The public interest factors are: ‘(1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflict of laws . . . .’” *Id.* A court may transfer venue when these factors show that a different venue would be more convenient for the parties involved. *Id.* at 314. “Although [these factors] are appropriate for most transfer cases, they are not necessarily exhaustive or exclusive.” *Id.* at 315. Further, “none [of these factors] can be said to be of dispositive weight.” *Id.* (quoting *Action Indus., Inc. v. U.S. Fid. & Guar. Corp.*, 358 F.3d 337, 340 (5th Cir. 2004)). When transferring venues would simply shift inconveniences, transfer is inappropriate. *First Fitness Int’l, Inc. v. Thomas*, 533 F. Supp. 2d 651, 658 (N.D. Tex. 2008). Fifth Circuit precedent clarifies that the plaintiff’s choice of venue is not a distinct factor in the § 1404(a) analysis, but “when the

transferee venue is not clearly more convenient than the venue chosen by the plaintiff, the plaintiff's choice should be respected.” *Volkswagen II*, 545 F.3d at 314-15.

The purpose of § 1404(a) “is to prevent the waste of time, energy, and money and to protect litigants, witnesses and the public against unnecessary inconvenience and expense.” *Van Dusen v. Barrack*, 376 U.S. 612, 616 (1964) (internal quotations omitted). As a result, in addition to the private and public interest factors, “in appropriate circumstances, courts have analyzed the goal of preventing unnecessary inconvenience and expense under the rubric of ‘judicial economy.’” *Patent Harbor, LLC v. Twentieth Century Fox Home Entm’t, LLC*, 2012 WL 1903875, at \*2 (E.D. Tex. May 25, 2012). Further, “courts have consistently held that judicial economy plays a paramount role in trying to maintain an orderly, effective, administration of justice.” *Id.* (quoting *In re Vistaprint Ltd.*, 628 F.3d 1342, 1346 (Fed. Cir. 2010)) (additional citation omitted); *see also* 28 U.S.C. § 1404(a) (“For the convenience of the parties and witnesses, in *the interest of justice* . . .”) (emphasis added). In certain cases, the potential “inconvenience” of the parties may be outweighed by judicial economy considerations. *See, e.g., Patent Harbor*, 2012 WL 1903875 at \*2 ; *ColorQuick LLC v. Vistaprint Ltd.*, 2010 WL 5136050, at \*7 (E.D. Tex. Jul. 22, 2010), *mandamus denied*, *In re Vistaprint, Ltd.*, 628 F.3d 1342 (Fed. Cir. 2010) (denying transfer where most convenience factors weighed in favor of transfer since “[t]he parties and the judiciary would benefit from the Court’s familiarity with the patent-in-suit, which would require a substantial investment of time, energy and money to replicate.”)

#### **B. Summary of Parties’ Arguments**

Defendants argue that transferring this case to the Northern District of California is proper because the majority of the public and private interest factors considered by the Fifth Circuit weigh

in favor of transfer. *See* Defs.’ Br. Supp. Mot. Transfer 9, ECF No. 90. Specifically, Defendants contend that the Northern District of California could compel third-party witnesses, would be more convenient for known witnesses, would have easier access to sources of proof, and trial would be more expeditious and less expensive. *Id.* at 9-10. Defendants argue that Wichita Falls would be an inconvenient forum for all traveling witnesses because Wichita Falls does not have a major airport, and therefore all flights must connect through Dallas/Fort Worth. *Id.* at 14. In particular, Defendants note that travel time for witnesses located in the State of Washington, in San Diego, California, in Taiwan, and in Korea will be shorter if the trial is held in California rather than in Texas. *Id.* at 15. In short, Defendants argue that because the parties have extensive connections to the Northern District of California but lack relevant connections to the Northern District of Texas, a transfer of venue is warranted.

Summit 6 opposes transfer, arguing that Defendants fail to meet their burden of showing the transferee venue is “clearly more convenient than the venue chosen by Plaintiff.” Pl.’s Resp. Mot. Transfer 17 (quoting *Volkswagen II*, 545 F.3d at 315), ECF No. 118. Summit 6 contends that Defendants’ motion ignores ties to the Northern District of Texas, and misleadingly focuses on undisclosed “likely” witnesses, unknown “potential” witnesses, and hypothetical third parties. *Id.* at 1. Summit 6 also argues that the Court’s past experience with two of the three Patents-in-Suit weighs in favor of denying transfer:

Defendants pay scant lip-service to the previous Summit 6 case against Facebook, Samsung, and others. They minimize the fact that this very Court proceeded all the way through pre-trial on two of the three Patents-in-Suit, and went through a liability trial, an inequitable conduct trial, and post-trial briefing for one of the Patents-in-Suit. *Summit 6, LLC v. RIM*, Case No. 3:11-cv-0367-O (N.D. Tex. filed Feb. 23, 2011) (O’Connor, J.).

*Id.* at 3. According to Summit 6, “[t]his Court’s past experience is significant, it substantially overlaps with the issues in the current case, and will likely involve similar or identical evidence as that in the current case. *Id.* at 9.

## **C. Analysis**

### **1. Proper Venue**

The threshold question in a § 1404(a) analysis is whether the civil action might have been originally brought in the transferee court, here, the Northern District of California. *Volkswagen II*, 545 F.3d at 312. Summit 6 does not dispute that this case could have been originally brought in the Northern District of California. The next question, then, is whether transferring the case would be for the convenience of parties and witnesses, and in the interest of justice. To make this determination, the Court must consider and weigh the private and public interest factors set forth above.

### **2. Private Interest Factors**

#### *a. Relative Ease of Access to Sources of Proof*

The first private interest factor is relative ease of access to sources of proof. *See Volkswagen II*, 545 F.3d at 316. Defendants contend that it will be substantially more convenient to access sources of proof in the proposed transferee venue because the vast majority of sources of proof and documents relevant to the claims of infringement asserted against the majority of Defendants are located in the Northern District of California. Through declarations, Defendants provide evidence that Apple’s and Twitter’s potentially relevant evidence and sources of proof are located in the transferee venue. *See* App. Supp. Mot. Transfer Ex. 238 (Axelsen Decl.) ¶ 10, ECF No. 91-5 (Twitter); *id.* Ex. 238 (Buckley Decl.) ¶ 4 (Apple). Defendant Motorola’s relevant documents are

either in Chicago, Illinois (Motorola's principal place of business), or in Sunnyvale, California, where it has an office. *Id.* Ex. 245 (Brown Decl.) ¶ 10. HTC has no documents or proof in California, but instead in Taiwan or Bellevue, Washington. *Id.* Ex. 249 (Bariault Decl.) ¶¶ 5, 10-11. LGE MobileComm's relevant U.S.-based documents are located either in San Diego, California (its principal place of business), or in San Jose, California, where it has an office. *Id.* Ex. 297 (Son Decl.) ¶¶ 12-16.

In response, citing declarations submitted by Defendants, Summit 6 emphasizes that HTC has no documents or proof in California, but instead in Taiwan or Bellevue, Washington, and that LGE Inc.'s proof is in Seoul, Korea, not California. Further, Summit 6 argues that "although LG MobileComm states that most of its sources of proof are located in San Jose, California, it appears that at least some of this evidence is actually located in New Jersey." Pl.'s Resp. Mot. Transfer 19 (citing *Vertical Computer Sys., Inc. v. LG Electronics MobileComm USA, Inc.*, 2013 WL 2241947, at \*3 (E.D. Tex. May 21, 2013) (noting that LGE argued in support of venue transfer to New Jersey that "several business functions related to LGE MobileComm's mobile phone business have been transitioning to LG Electronics, U.S.A., Inc. in New Jersey[]")). Through a declaration, Summit 6 provides evidence that its documents are, and have been, in Dallas, Texas since 2009. App. Supp. Resp. Ex. 4 (Pate Decl.) ¶¶ 14, 18-19.

"[T]his factor almost invariably turns on which party will most likely have the greater volume of relevant documents and their presumed physical location in relation to the venues under consideration." *Frito-Lay N. Am., Inc. v. Medallion Foods, Inc.*, 867 F. Supp. 2d 859, 869 (E.D. Tex. 2012). In patent infringement cases, the majority of relevant evidence comes from the accused infringers. *In re Genentech, Inc.*, 566 F.3d 1338, 1345 (Fed. Cir. 2009). Thus, "the place where the

defendant's documents are kept weighs in favor of transfer to that location.” *Id.* (citation omitted).

The location of Apple's, Twitter's, and, in a more limited fashion, LGE MobileComm's, physical evidence lends weight to transfer. However, Defendants fail to establish that the greater volume and presumed physical location of documents and evidence relevant to the case are concentrated in or near the transferee forum. Defendant HTC Corporation's documents and other physical evidence relevant to the accused products are all located in Taiwan. App. Supp. Mot. Transfer Ex. 249 (Bariault Decl.) ¶ 5. Defendant HTC America, Inc.'s documents and other physical evidence relevant to the accused products are located in Washington. *Id.* ¶ 10. Defendant Motorola's documents and other physical evidence relevant to the accused products are located at its Illinois headquarters and at an office in California. *Id.* Ex. 245 (Brown Decl.) ¶ 13. LGE Inc.'s documents are located in Seoul, Korea. *Id.* Ex. 298 (Son Decl.) ¶ 4. Summit 6's documents and other physical evidence are in Texas. App. Supp. Resp. Ex. 4 (Pate Decl.) ¶¶ 14, 18-19.

Based on the evidence presented, where sources of proof originate from varied locations, including California, Washington, Texas, Illinois, Taiwan, and perhaps Korea and New Jersey, the Court concludes this factor is neutral. *See Frito-Lay*, 867 F. Supp. 2d at 869 (holding that where “the sources of proof originate from varied locations, this factor is neutral.”); *Perritt v. Jenkins*, 2011 WL 3511468, at \*3 (E.D. Tex. July 18, 2011) (“Because sources of proof originate from varied locations, this factor is neutral.”); *see also Konami Dig. Entm't Co. Ltd. v. Harmonix Music Sys.*, 2009 WL 781134, at \*4 (E.D. Tex. Mar. 23, 2009) (“While Defendants point to [the transferee district] as the location of significant sources of proof, they ignore the remaining sources of proof which originate from other locations.”).

Further, the Court agrees with Summit 6 that Defendants' “conclusory statements that [their]

documents related to research, design, development, testing and marketing are located in California (or Taiwan or Washington) are too vague to meet their burden.” *See* Pl.’s Resp. Mot. Trans. 16. *See generally Core Wireless Licensing, S.A.R.L. v. Apple, Inc.*, 2013 WL 682849, at \*3 (E.D. Tex. Feb. 22, 2013) (holding as too speculative Apple, Inc.’s statement that “virtually all Apple business documents and records relating to the research, design, development, marketing strategy, and product revenue related to the Accused products are located in or near Cupertino.”), *mandamus denied, In re Apple Inc.*, 743 F.3d 1377 (Fed. Cir. 2014). The declarations filed in this case regarding sources of proof and documents are equally conclusory and vague, making it difficult for the Court to weigh this factor.

In short, Defendants have not shown that the Northern District of California is clearly a more convenient forum to access sources of proof for all parties. Accordingly, this factor is neutral.

*b. Cost of Attendance for Willing Witnesses*

The second private interest factor is the cost of attendance of willing witnesses. *See Volkswagen II*, 545 F.3d at 317. “[I]t is the convenience of non-party witnesses, rather than of party witnesses, that is more important and accorded greater weight in a transfer of venue analysis.” *Frito Lay*, 867 F. Supp. 2d at 871. The Fifth Circuit established the “100-mile” rule to determine the convenience of the transferee district to the witnesses and parties. “When the distance between an existing venue for trial of a matter and a proposed venue under § 1404(a) is more than 100 miles, the factor of the convenience to witnesses increases in direct relationship to the additional distance to be traveled.” *Volkswagen I*, 371 F.3d at 204-06. Where witnesses are from widely scattered locations, a trial court should not consider its “central location . . . in the absence of witnesses within the plaintiff’s choice of venue.” *In re Genentech*, 566 F.3d at 1344.

Defendants have identified over twenty party witnesses likely to possess specific knowledge relevant to the accused products who reside in the Northern District of California. Defs.’ Br. Supp. Mot. Transfer 11-15. Defendants also list Lisa T. Wood, the first named inventor of all three Patents-in-Suit, who resides in the transferee district. Defendants further assert: “To the extent that Summit 6’s infringement allegations require Defendants to call trial witnesses with relevant knowledge of the MMS functionalities within the Android operating system used in some of Defendants’ accused products (e.g., Google employees), such Google employees are believed to reside in the Northern District of California.” *Id.* at 12.

In response, Summit 6 notes that Defendants focus on the convenience of party witnesses, rather than non-party witnesses. Pl.’s Resp. Mot. Transfer 14-15. Summit 6 also accuses Defendants of “cherry-pick[ing] a large number of redundant witnesses, [and] ignoring those with highly relevant information outside of California. For example, Motorola neglects to mention that one of the witnesses in its initial disclosure (Andy Koziol) is located in Chicago, Illinois[.]” *Id.* at 13. Summit 6 lists third-party witnesses who do not reside in California, including one of the inventors who lives in the Czech Republic, the attorney who prosecuted two of the Patents-in-Suit in front of the United States Patent and Trademark Office who resides in Reston, Virginia, and several customers and licensees that use Summit 6’s inventions that are in Texas. App. Supp. Resp. Ex. 4 (Pate Decl.) 2-3, ECF No. 118-1.

Inconvenience to the party-witnesses residing in the Northern District of California will increase as the distance they must travel increases, and traveling to a local court would be more convenient than traveling to Texas. *See Volkswagen I*, 371 F.3d at 204-06. While Summit 6 has pointed to a handful of non-party witnesses who will also be inconvenienced, overall the Court



concludes that this factor weighs in favor of transfer. *See generally In re Genentech*, 566 F.3d at 1348 (reversing trial court's decision to deny venue transfer from Eastern District of Texas to Northern District of California, in part, due to "a substantial number of witnesses with material and relevant information residing in either the transferee venue or the state of California who will be unnecessarily inconvenienced in having to travel to Texas to testify.").

*c. Availability of Compulsory Process to Secure Attendance of Witnesses*

Federal Rule of Civil Procedure 45(b)(2) allows a federal court to compel a witness' attendance at a trial or hearing by subpoena. The Court's subpoena power is limited by Rule 45(b)(3), to those witnesses who work or reside less than 100 miles from the courthouse. *See Volkswagen II*, 545 F.3d at 316. This factor would weigh in favor of transfer if the majority of non-party witnesses are located in the Northern District of California. *See id.* The Court gives more weight to those specifically identified witnesses and affords less weight to vague assertions that witnesses are likely located in a particular forum. *Core Wireless Licensing*, 2013 WL 682849, at \*3. "The factor will weigh the heaviest in favor of transfer when a transferee venue is said to have 'absolute subpoena power' [which is] subpoena power for both depositions and trials." *Eolas Techs., Inc. v. Adobe Sys., Inc.*, 2010 WL 3835762, at \*5 (E.D. Tex. Sept. 28, 2010), *mandamus denied*, *In re Google Inc.*, 412 F. App'x 295 (Fed. Cir. 2011) (citations omitted and punctuation altered).

As described above, the parties have identified potential third-party witnesses located not just in California, but elsewhere in the United States and in foreign countries. As neither district would have absolute subpoena power, on the record presented, the Court concludes this factor is neutral.

*See Eolas Techs., Inc.*, 2010 WL 3835762, at \*5 (finding this factor neutral where neither district would have absolute subpoena power).

*d. All Practical Problems that Make Trial of Case Easy, Expeditious, and Inexpensive*

In addition to repeating prior arguments concerning convenience of witnesses and location of sources of proof, Defendants argue that trying this case in the Northern District of California would resolve many practical problems, including that Wichita Falls does not have an international airport, while the transferee district can be accessed via three international airports. Defendants also point out that their operations will be disrupted if their employees have to travel to Wichita Falls. Defs.’ Br. Supp. Mot. Transfer 19-21. Summit 6 argues that concerns of judicial economy weigh against transfer. Pl.’s Resp. Mot. Transfer 9-12. For the reasons set forth in a separate section below, *see infra* at 19-22, while Defendants raise valid practical problems, the Court concludes that this factor weighs against transfer.<sup>1</sup> *See PersonalWeb Techs., LLC v. NEC Corp. of Am., Inc.*, 2013 WL 960033, at \*5 (E.D. Tex. Mar. 21, 2013) (citing *Volkswagen II*, 566 F.3d at 1351) (“Practical problems include those that are rationally based on judicial economy.”)

## **2. The Public Interest Factors**

*a. Court Congestion*

To determine court congestion, “courts commonly consider the Federal Judicial

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<sup>1</sup> In the Joint Report for Contents of Scheduling Order, HTC, LGE and Motorola request that, in the event the Court denies the current motion, the Court preside over the trial of this civil action in Dallas or Fort Worth, thereby minimizing the additional inconvenience of having witnesses travel from Dallas/Fort Worth International Airport to Wichita Falls. *See* Joint Report at 4-5, ECF No. 92. The Court declines to address the issue of intra-district transfer at this time, though the parties may re-urge it at a later time. In the interim, the Court will endeavor to accommodate out-of-town counsel by permitting them to confer on locations for pretrial conferences. The Court notes that United States Magistrate Judge Robert K. Roach has presided over several preliminary matters and has provided the option for telephonic discovery hearings.

caseload statistics.” *USPG Portfolio Two, LLC v. John Hancock Real Estate Fin., Inc.*, 2011 WL 1103372, at \*5 (N.D. Tex. Mar. 25, 2011) (Fitzwater, J.). Court congestion can be measured by “whether a trial may be speedier in another court because of a less crowded docket.” *In re Genentech*, 566 F.3d at 1347. The Federal Circuit has described court congestion as “the most speculative [factor]” since “case-disposition statistics may not always tell the whole story.” *Id.*

The evidence presented by both parties shows that the median time to trial in the Northern District of California (2.3 years) is greater than in the Northern District of Texas (1.68 years). *See* App. Supp. Resp. Ex. 7 (March 2013 U.S. District Courts Chart), ECF No. 118-1; App. Supp. Mot. Transfer 73-75 (March 2013 U.S. District Courts Chart), ECF No.91-1. Though Defendants also cite statistics for the median time interval from filing to disposition to argue this factor is neutral, the median time to disposition is of limited relevance. *See In re Genentech*, 566 F.3d at 1347 (in patent infringement case, court congestion can be measured by “whether a *trial* may be speedier in another court because of a less crowded docket.”) (emphasis added). Summit 6 also correctly notes that this Court has set the case for trial on November 30, 2015, which is less time than the Northern District of Texas median time to trial, and approximately half the time reflected in the statistics for the Northern District of California. App. Supp. Resp. Ex. 8 (Scheduling Order), ECF No. 118-1.<sup>2</sup>

In sum, based on the evidence presented concerning a faster median time from filing to trial in this district, coupled with the deadlines and trial date set forth in the June 12, 2014 Scheduling Order (ECF No. 93), the Court concludes that, overall, this Court would likely be able to resolve this

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<sup>2</sup> While Summit 6 also argues that transfer of the case to California would delay the case and therefore increase the cost, which would disadvantage the smaller party (Summit 6) and be advantageous to the Defendants, *see* Pl.’s Resp. Mot. Transfer 7, these concerns do not factor into the Court’s analysis. *See In re Radmax, Ltd.*, 720 F.3d 285, 289 (5th Cir. 2013) (holding that “garden-variety delay associated with transfer is not to be taken into consideration when ruling on a § 1404(a) motion to transfer.”)

action more quickly than the transferee court. Thus, this factor weighs in favor of keeping the case in this Court.

*b. Local Interest in Having Localized Interests Decided at Home*

The Court considers local interest in this litigation because “[j]ury duty is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation.” *Volkswagen I*, 371 F.3d at 206 (quoting *Gulf Oil*, 330 U.S. at 508-09). Defendants argue that the transferee district has a strong local interest in resolving this dispute because, among other things, “Summit 6’s infringement allegations call into question the work and reputation of thousands of people in and around the Northern District of California[.]” Defs.’ Br. Supp. Mot. Transfer 23. Defendants also argue this factor weighs in favor of transfer since: (i) one of Summit 6’s two employees resides in Northern California; (ii) this action concerns claimed inventions conceived and developed in the Northern District of California; (iii) many of the actions giving rise to Defendants’ inequitable conduct defense (including the due diligence performed on Point2 prior art) took place in the Northern District of California; and (iv) considered collectively, Defendants employ nearly 20,000 employees in the Northern District of California, where the majority of Defendants are either headquartered or have offices, and which is also where they developed many of the accused products and services. *Id.* at 22. Defendants contend this case has minimal connections with the Northern District of Texas, despite Summit 6 maintaining its principal place of business in Dallas, Texas for several years. Specifically, Defendants argue that Summit 6’s “presence in this District is recent, ephemeral, and an artifact of litigation.” *Id.* at 24 (quoting *In re Zimmer Holdings*, 609 F.3d 1378, 1381 (Fed. Cir. 2009)).

It is undisputed that a number of Defendants are headquartered or have offices in the

Northern District of California, that the research and design of some of the accused products took place in the Northern District of California, and that, therefore, the Northern District of California has a local interest in this dispute. *See In re Hoffmann-La Roche*, 587 F.3d 1333, 1336-37 (Fed. Cir. 2009) (encouraging courts to consider the work and reputation of individuals involved in developing the accused products). The Northern District of Texas, however, also has a local interest in the outcome of this case since: Summit 6's principal place of business is in this District;<sup>3</sup> Summit 6 has been a Dallas-based company, paying property taxes, and working with Dallas-based Sell.com for almost ten years; all of Summit 6's corporate records, hard-copy documents, historic software packages, and other business materials are located in Dallas and have been since 2009; and Summit 6 has paid property taxes in Dallas every year since 2009, and paid franchise taxes in 2013. App. Supp. Resp. Ex. 4 (Pate Decl.) at 2-3; First Amended Compl. ¶ 4. Contrary to Defendants' argument, this is not an instance where Plaintiff lacks any ties with the transferor forum. *Compare Odom v. Microsoft Corp.*, 596 F. Supp. 2d 995, 1003 (E.D. Tex. 2009) (granting transfer where transferor forum had no meaningful connection to case) *with Eolas Techs.*, 2010 WL 3835762, at \*4 (denying transfer in part based on plaintiff's ties with the transferor forum) and *Novelpoint Learning LLC v. Leapfrog Enters, Inc.*, 2010 WL 5068146, at \*5 (E.D. Tex. Dec. 6, 2010) (same). Further, on this record, where Defendants have failed to marshal any evidence of forum manipulation, the Court is not willing to disregard Summit 6's connections to this District as ephemeral or an "artifact of litigation." *See generally In re Hoffmann-La Roche*, 587 F.3d at 1336-

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<sup>3</sup> The Court does not give weight to Summit 6's choice of venue. *See In re Volkswagen II*, 545 F.3d at 315. The Court, however, does consider Summit 6's location in determining whether transfer would be more convenient for it, just as the Court considers every other party's location for the same purpose. *See id.*

37 (holding that connection with forum should be discounted where evidence revealed plaintiff's counsel's deliberate acts to manipulate venue in anticipation of litigation by sending all documents to the offices of its litigation counsel in Texas).

In sum, each district has a local interest in the outcome of this dispute. Thus, this factor is neutral.

*c. Familiarity with the Law and Conflicts of Law*

The parties agree that the third and fourth public interest factors — familiarity of the forum with the law that will govern the case and avoidance of unnecessary problems of conflicts of laws — are neutral. Accordingly, the Court need not address these factors in detail.

**3. Judicial Economy**

“Generally, a court should transfer a case where most of the witnesses and evidence in the case are closer to the transferee venue, with few or no convenience factors favoring the venue chosen by the plaintiff.” *In re Nintendo Co.*, 589 F.3d 1194, 1198 (Fed. Cir. 2009). In certain circumstances, however, the Federal Circuit has found that “[c]onsideration of interest of justice, which includes judicial economy, may be determinative to a particular transfer motion, even if the convenience of the parties and witnesses might call for a different result.” *Regents of Univ. of Cal. v. Eli Lilly and Co.*, 119 F.3d 1559, 1565 (Fed. Cir. 1997) (citation and internal marks omitted); *see also In re Aliphcom*, Misc. No. 971, 449 F. App'x 33, 34-35 (Fed. Cir. Feb. 9, 2011); *Patent Harbor, LLC*, 2012 WL 1903875 at \*2; *ColorQuick LLC*, 2010 WL 5136050 at \*7; 15 Charles A. Wright, Arthur R. Miller & Edward H. Cooper, *Fed. Prac. & Proc.* § 3854, pp. 439-40 (2d ed. 1986) (suggesting that “the interests of justice may be decisive in ruling on a transfer motion even though the convenience of parties and witnesses point in a different direction.”).

Summit 6 argues that judicial economy weighs in favor of denying transfer as this Court will give the parties a more expeditious and less expensive trial because the Court is “exceedingly familiar” with the Patents-in-Suit and many of the issues at hand, after this Court heard the previous *Summit 6* case. *Id.* Summit 6 notes that the Court has significant experience:

(1) construing terms from both the ’557 and ’482 Patents; (2) ruling on summary judgment motions related to validity and infringement of both the ’557 and ’482 Patents; (3) ruling on evidentiary issues, (4) holding a liability trial on infringement and validity for the ’482 Patent; and (5) holding an inequitable conduct trial relating to facts that would be the same across both the ’482 Patent and the newly-issued ’515 Patent.

*Id.* Summit 6 argues that the instant case is likely to involve “similar or identical evidence” as the first *Summit 6* case, and therefore the Court should keep the case in the interest of judicial economy.

*Id.*

Defendants counter that the relevance of the previous *Summit 6* case is overstated and any judicial economy is minimal because:

(1) this case involves different defendants, different claims, an additional patent, and different accused products and services and, in Apple’s case, a different operating system altogether; (2) none of the products and services accused here was at issue in the prior matter; (3) the five adjudged claims of the ’482 patent are currently under reexamination; and (4) the PTO recently issued a Final Rejection that held all five claims unpatentable.

Defs.’ Reply Br. Supp. Mot. Transfer 8, ECF No. 119. In addition, Defendants argue that judicial economy concerns do not control when another venue is clearly more convenient. Defs.’ Br. Supp. Mot. Transfer 20 (citing *In re Zimmer Holdings, Inc.*, 609 F.3d 1378 (Fed. Cir. 2010); *In re Verizon Bus. Network Servs., Inc.*, 635 F.3d 559 (Fed. Cir. 2011)).

The Court finds that the cases upon which Defendants rely are distinguishable. In *In re Zimmer*, the Federal Circuit overruled a district court that had denied transfer to a more convenient

venue because the patentee had a pending suit in the transferor venue involving one of numerous patents asserted in the two cases. 609 F.3d at 1382. The Federal Circuit found that overlap of only one out of numerous patents was not compelling enough to deny a transfer to a clearly more convenient venue based solely on judicial economy grounds. *Id.* In *In re Verizon*, the Federal Circuit found that the “. . . [district court]’s previous claim construction in a case that settled more than five years before the filing of this lawsuit to be too tenuous” a reason to deny transfer. 635 F.3d at 562. In contrast, the Court notes that the previous and instant *Summit 6* cases are more closely related in subject matter and much closer in time than in the cases cited by the Defendants. The previous *Summit 6* litigation, though not concurrent, was filed in 2011, went to trial in 2013, and involved two out of three of the patents at issue in this case. Unlike *In re Zimmer* and *In re Verizon*, both of which only made it to early stages in litigation, the first *Summit 6* case was tried before a jury and finally litigated in this Court.

Although Defendants assert that the opportunity for judicial economy based on this Court’s familiarity with the Patents-in-Suit is overstated and the efficiencies are minimal, the Court finds this argument unpersuasive. An evaluation of the public and private interest factors should not ignore this forum’s knowledge and experience with the patents and technology, and with the inequitable conduct defenses, as well as the judicial resources the Court previously invested in the first *Summit 6* dispute. *See, e.g., Realtime Data, LLC v. Stanley*, 2010 WL 1064474, at \*3 (E.D. Tex. Mar. 18, 2010) (“Where there are related lawsuits involving the same plaintiff, the same patent, and similar technology, transfer to another venue will prevent the parties from taking advantage of the built-in efficiencies that result from having related cases before the same judge.”) (citation and internal marks omitted); *Novartis Vaccines and Diagnostics, Inc. v. Bayer Healthcare, LLC*, 2009 WL



3157455, at \*5 (E.D. Tex. Sept. 28, 2009) (concluding that because the two actions involve the same patent, “[t]he two cases involve the same claim construction issues and transferring the case will only consume unnecessarily additional judicial resources.”); *In re Google*, 412 F. App’x 295, 296 (Fed. Cir. 2011) (“Courts have consistently held that judicial economy plays a paramount role in trying to maintain an orderly, effective, administration of justice and having one trial court decide all of these claims clearly furthers that objective.”); *ColorQuick*, 2010 WL 5136050 at \*2, 7, 8 (denying transfer where court, in previous case involving the patent-in-suit, had “reviewed technical tutorials, familiarized itself with the patented technology, held a *Markman* hearing, and issued a claim construction opinion”).<sup>4</sup>

Further, “the risk of inconsistent claim construction is an important consideration when assessing the importance of judicial economy in transfer analysis.” *U.S. Ethernet Innovations, LLC v. Acer, Inc.*, 2010 WL 2771842, at \*7 n.8 (E.D. Tex. July 13, 2010); *see also Zoltar Satellite Sys. v. LG Elecs. Mobile Commc’ns Co.*, 402 F. Supp. 2d 731, 735, 736-37 (E.D. Tex. 2005) (in cases involving “highly technical subject matter, such as patent litigation[,]” court’s familiarity with patents-in-suit and judicial economy must be considered in transfer analysis).<sup>5</sup>

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<sup>4</sup> The Court remains mindful that judicial economy concerns generally do not overcome an otherwise compelling case for transfer. *See, e.g., In re Morgan Stanley*, 417 F. App’x 947, 950 (Fed. Cir. 2011) (noting that the proper administration of justice may be to transfer to a far more convenient venue even when the trial court has some familiarity with a matter from prior litigation.). Here, however, the majority of the public and private interest factors are neutral, and the Court concludes that transferring this action now would result in a waste of judicial and party resources and create burdens and redundancies by compelling another court to familiarize itself with the Patents-in-Suit.

<sup>5</sup> Summit 6 correctly notes that at least one Defendant has acknowledged the importance of allowing the same court to hear cases “involv[ing] some of the same claim terms, inventors, patent counsel, and technologies” because it allows “similar, and in some instances identical, issues or claim construction, invalidity, and enforceability.” *See* Pl.’s Resp. Mot. Transfer 9-10 (citing HTC’s Memorandum of Law in Support of Motion to Transfer Venue in *Flashpoint Tech. Inc. v. HTC Corp.*, 1:14-cv-00317 (E.D.N.C. Nov. 7, 2013)).

#### 4. Conclusion

The Court has considered the private and public interest factors together and does not assign dispositive weight to any one factor. *See Volkswagen I*, 371 F.3d at 203. The majority of private and public interest factors are neutral, though the convenience of witnesses weighs slightly in favor of transfer and court congestion weighs slightly against transfer. Based on the unique factual circumstances presented, the Court concludes that any additional convenience in the transferee venue is outweighed by the concerns of judicial economy and uniformity of claim construction, which favor this Court. Because Defendants have failed to meet their burden to show good cause that this case should be transferred to the Northern District of California, the motion to transfer venue is denied.<sup>6</sup>

### III. DEFENDANT APPLE INC.'S CONTINGENT MOTION TO SEVER

Apple has filed a contingent motion to sever requesting that the Court, pursuant to 35 U.S.C. § 299 and Fed. R. Civ. P. 21, “sever Summit 6’s claims against Apple from Summit 6’s claims against the other defendants.” *See* Mem. Supp. Def. Apple’s Mot. Sever (“Apple’s Mot. Sever”), 1, ECF No. 112. Apple further requests that, “to the extent this Court does not transfer this entire action pursuant to the defendants’ pending joint motion to transfer to the Northern District of California . . . , this Court transfer at least the severed action against Apple to the Northern District of California.” *Id.* Summit 6 opposes the motion. *See* Pl.’s Resp. Def. Apple’s Mot. Sever 1, ECF No. 122.

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<sup>6</sup> To the extent it can be argued that this conclusion relies on fewer than all the private and public interest factors, or emphasizes certain factors over others, the Court notes that “[a]lthough [these] factors are appropriate for most transfer cases, they are not necessarily exhaustive or exclusive.” *Volkswagen II*, 545 F.3d at 315.

**A. Applicable Legal Standard**

In *In re EMC*, the Federal Circuit addressed the proper standard to evaluate whether joinder of a defendant is proper under Rule 20. *In re EMC Corp.*, 677 F.3d 1351, 1359 (Fed. Cir. 2012). It clarified that in patent cases “joinder is not appropriate where different products or processes are involved.” *Id.* “Unless there is an actual link between the facts underlying each claim of infringement, independently developed products using differently sourced parts are not part of the same transaction, even if they are coincidentally identical.” *Id.* “[T]he mere fact that infringement of the same claims of the same patent is alleged does not support joinder, even though the claims would raise common questions of claim construction and patent invalidity.” *Id.* at 1357. However, the Federal Circuit made clear that *In re EMC* is not an absolute bar to joinder, and the Court must assess whether the challenged actions are part of the “same transaction, occurrence, or series of transactions or occurrences.” *Id.* (using the “transaction or occurrence” test).

The Federal Circuit in *In re EMC* also made clear that “even if joinder is not permitted under Rule 20, the district court has considerable discretion to consolidate cases for discovery and for trial under Rule 42.” *Id.* at 1360. Rule 42 states: “If actions before the court involve a common question of law or fact, the court may: (1) join for hearing or trial any or all matters at issue in the actions; (2) consolidate the actions; or (3) issue any other orders to avoid unnecessary cost or delay.” Fed. R. Civ. P. 42(a). Further, “district courts have the discretion to refuse joinder in the interest of avoiding prejudice and delay, ensuring judicial economy, or safeguarding principles of fundamental fairness.” *In re EMC*, 677 F.3d at 1360 (quoting *Acevedo v. Allsup’s Convenience Stores, Inc.*, 600 F.3d 516, 521 (5th Cir. 2010)). “In a complicated patent litigation a large number of defendants might prove unwieldy, and a district court would be justified in exercising its discretion to deny joinder ‘when

different witnesses and documentary proof would be required.” *Id.* (quoting *Acevedo*, 600 F.3d at 522).

Ordinarily, issues of joinder and severance are governed by the Federal Rules of Civil Procedure, Rules 20, 21 and 42. Effective September 16, 2011, joinder in patent cases is governed by the Leahy-Smith America Invents Act (“AIA”) under which “accused infringers may not be joined in one action as defendants . . . based solely on allegations that they each have infringed the patent or patents in suit.” 35 U.S.C. § 299(b). Instead, defendants in patent infringement cases may be joined only if:

(1) [a]ny right to relief is asserted against the parties jointly, severally, or in the alternative with respect to or arising out of *the same transaction, occurrence, or series of transactions and occurrences* relating to the making, using, importing into the United States, offering for sale, or selling *of the same accused product or process*; and

(2) questions of fact common to all defendants or counterclaim defendants will arise in the action.

35 U.S.C. § 299(a) (emphasis added). The AIA’s joinder requirement is more stringent than Rule 20, and adds a requirement that the transaction or occurrence must relate to making, using, or selling of the same accused product or process. *In re Nintendo*, 544 F. App’x 934, 939 (Fed. Cir. 2013).<sup>7</sup> Thus the AIA limits the number of accused infringers that can be joined as defendants in one lawsuit, thereby creating the possibility of more lawsuits on the same patent. *See Lighting Ballast Control LLC v. Philips Elecs. N. Am. Corp.*, 744 F.3d 1272, 1293 (Fed. Cir. 2014). If parties are misjoined in violation of the AIA, Federal Rule of Civil Procedure 21 provides the remedy of severance. Fed.

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<sup>7</sup> Before the AIA, courts permitted joinder of defendants accused of infringing the same patents because there was a common nucleus of operative facts or law in the claims against all the defendants. *See, e.g., Mymail, Ltd. v. Am. Online, Inc.*, 223 F.R.D. 455, 457 (E.D. Tex. 2004).

R. Civ. P. 21. Under Rule 21, on motion, or on its own, the court may at any time, on just terms, add or drop a party, or sever any claims against a party. *Id.*

**B. Analysis**

The propriety of severance in this action hinges on the AIA's first requirement, namely, whether the right to relief against Apple and the other Defendants arises out of the same transaction, occurrence, or series of transactions or occurrences relating to the making, using, importing into the United States, offering for sale, or selling of the same accused product or process. *See* 35 U.S.C. § 299(a). In support of its motion, Apple argues that these AIA requirements are not met since: (1) the accused Apple products are distinct from the accused products and services of the other Defendants, and (2) the facts underlying Summit 6's infringement claims against Apple are distinct from the facts underlying Summit 6's infringement claims against the other Defendants. Apple also argues that, in addition to being prohibited by the AIA, Apple's joinder with Twitter and the other co-Defendants would be highly prejudicial and confusing to a jury. Apple's Mot. Sever at 3-9.

In opposition, Summit 6 argues that joinder is permissible since Apple's accused products meet the sameness requirements for joinder, even though they run on the iOS platform and not the Android platform. *See* Pl.'s Resp. Def. Apple's Mot. Sever 5, ECF No. 122. Summit 6 further contends that there are common underlying facts with regard to all Defendants, thereby satisfying the same transaction or occurrence test. *See* Pl.'s Resp. Def. Apple's Mot. Sever 7, ECF No. 122. Summit 6 states that all handset defendants have common underlying facts, including: "(1) information related to limits on MMS message size, (2) carrier requirements related to MMS messages, and (3) any other third-party requirements related to sending photos via MMS." *Id.* at 7-8. Summit 6 further posits that there are common underlying facts related to Twitter integration and

photo size restrictions for Twitter. *Id.* at 8. In addition, Summit 6 argues Apple's presence in the suit would not be prejudicial or tend to confuse a jury, and that severance of Apple's case could result in "an unnecessary risk of inconsistent claim construction and adjudication." *See id.* at 10. According to Summit 6, severance would be "a duplicative use of judicial resources" and would "only cause delay and increase costs for the parties and the Court." *See id.* at 10-11. Finally, Summit 6 argues that even if this Court grants Apple's Motion to Sever, this Court should consolidate the defendants for pre-trial matters and should deny the transfer of this case to the Northern District of California.

Summit 6's Complaint joining Apple with the co-Defendants fails the threshold statutory requirements of 35 U.S.C. § 299. *See also In re EMC*, 677 F.3d at 1359 ("joinder is not appropriate where different products or processes are involved."). Summit 6's infringement actions against Apple and the remaining Defendants do not implicate "the same accused product[s] or process[es]" 35 U.S.C. § 299. As summarized by Apple:

S6's attempt to join together the defendants based on the existence of two purported "facts" — "MMS functionality" and "Twitter integration," — that allegedly "link" the defendants, rings hollow. Neither of these "facts" establishes that the accused products are the "same," nor do they constitute a "substantial evidentiary overlap in the facts" that give rise to S6's claims against each defendant.

The Court agrees. Summit 6's claims against Apple relate to Apple's products, including the iPhone, iPad, and iPad Touch, and Apple's iOS-based proprietary services, including iMessaging, MMS Messaging, Message-related APIs and Twitter integration/functionality on Apple devices. *See* First Am. Compl. ¶¶ 95, 193. Summit 6's claims against LGE, HTC and Motorola relate to their Android-based proprietary services for MMS Messaging, Message-related APIs and Twitter integration/functionality on their devices. *See id.* ¶¶ 23, 35, 47, 59, 71, 83, 121, 133, 145, 157, 169,

181. Finally, Summit 6's claims against Twitter do not involve any products but relate to Twitter's upload services. *See id.* ¶¶ 12, 107, 205, 219.

In sum, Apple's accused products are not the same as the accused products of the remaining Defendants, a requirement for joinder under the AIA. Accordingly, the Court will grant Apple's motion to sever.<sup>8</sup>

The Court, however, denies Apple's motion to transfer the severed action to the Northern District of California. It is undisputed that Apple is headquartered in the Northern District of California, the development of Apple's accused products occurred in California, and the bulk of Apple's physical evidence relevant to this lawsuit and employees with relevant knowledge are in the Northern District of California. *See App. Supp. Mot. Transfer Ex. 240 (Buckley Decl.)* ¶¶ 5-8, ECF No. 91-5. This evidence would result in the factors concerning ease of access to sources of proof, cost of attendance of willing witnesses, and availability of compulsory process to weigh in favor of transfer. *See In re Nintendo*, 589 F.3d at 1198 ("Generally, a court should transfer a case where most of the witnesses and evidence in the case are closer to the transferee venue, with few or no convenience factors favoring the venue chosen by the plaintiff."). Nevertheless, the final private interest factor and all of the contested public interest factors continue to weigh in favor of retaining the litigation in this district. Considering all of these factors, the Court finds that avoidance of piecemeal litigation and the risk of inconsistent claim construction defeat any additional convenience to Apple and its witnesses of litigating in their home forum. In addition, Apple is not the only Defendant in this suit, and even if Apple is transferred to another district court, this case must

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<sup>8</sup> The Court's determination that Summit 6's Complaint joining Apple with co-Defendants fails the threshold statutory requirements of 35 U.S.C. § 299 obviates the need to consider Apple's remaining arguments in support of its motion to sever, or Summit 6's responses to these arguments.

proceed with the other Defendants. “Piecemeal litigation in the complex and technical area of patent and trademark law is especially undesirable.” *Datatreasury Corp. v. First Data Corp.*, 243 F. Supp. 2d 591, 594 (N.D. Tex. 2003) (Kaplan, M.J.). Further, “[b]y permitting two different courts to interpret the same patent claims, there is a heightened risk of inconsistent rulings which, in turn, promotes uncertainty and impedes the administration of justice.” *Id.* at 596; *see also U.S. Ethernet Innovations*, 2010 WL 2771842, at \*7 n.8 (“the risk of inconsistent claim construction is an important consideration when assessing the importance of judicial economy in transfer analysis.”); *Zoltar Satellite*, 402 F. Supp. 2d at 736-37 (in cases involving “highly technical subject matter, such as patent litigation[,]” court’s familiarity with patents-in-suit and judicial economy must be considered in transfer analysis).

Finally, in light of overlapping issues, common subject matter and closely related questions, and to permit efficient case management, the Court orders the newly severed action consolidated with the original filed case as to all issues through pretrial only. *See* Fed. R. Civ. P. 42(a).

#### IV. CONCLUSION

Based on the foregoing, the Court **denies** Defendants’ Motion to Transfer to the Northern District of California, and **grants in part** and **denies in part** Defendant Apple Inc.’s Motion to Sever. Specifically, Apple Inc.’s motion to sever is **granted** and its motion to transfer venue is **denied**. The Court **orders** that all claims against Defendant Apple be severed into a separate cause of action. The Court further **orders** the above-severed case consolidated with the original filed action, Cause No. 7-14-cv-0014-O, which is the lead case. All parties are instructed to file any future motions in the lead case. The severed action remains active for trial.



**SO ORDERED this 10th day of September 2014.**

  
Reed O'Connor  
UNITED STATES DISTRICT JUDGE

10/15/2014

District Version 5.1.1

JURY,LEAD

**U.S. District Court  
Northern District of Texas (Wichita Falls)  
CIVIL DOCKET FOR CASE #: 7:14-cv-00014-O**

Summit 6 LLC v. HTC Corporation, et al  
Assigned to: Judge Reed C O'Connor  
Cause: 28:1331 Fed. Question

Date Filed: 02/18/2014  
Jury Demand: Both  
Nature of Suit: 830 Patent  
Jurisdiction: Federal Question

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**Defendant**

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**Defendant**

**LG Electronics USA Inc**

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**Defendant**

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**Defendant**

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**Defendant**

**Apple Inc.**

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**Defendant**

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**Counter Claimant**

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**Counter Defendant**

**Summit 6 LLC**

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**Counter Claimant**

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**Counter Claimant**

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**Counter Defendant**

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10/15/2014

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Date Filed	#	Docket Text
02/18/2014	<a href="#"><u>1</u></a>	COMPLAINT WITH JURY DEMAND against All Defendants filed by Summit 6 LLC. (Filing fee \$400; Receipt number 0539-5857356) Clerk to issue summons(es). In each Notice of Electronic Filing, the judge assignment is indicated, and a link to the <a href="#">Judges Copy Requirements</a> is provided. The court reminds the filer that any required copy of this and future documents must be delivered to the judge, in the manner prescribed, within three business days of filing. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> (Attachments: # <a href="#"><u>1</u></a> Exhibit(s), # <a href="#"><u>2</u></a> Exhibit(s), # <a href="#"><u>3</u></a> Exhibit(s), # <a href="#"><u>4</u></a> Cover Sheet) (Cawley, Douglas) Filing fee receipt modified on 2/18/2014 (twd). (Entered: 02/18/2014)
02/18/2014	<a href="#"><u>2</u></a>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Summit 6 LLC. (Cawley, Douglas) (Entered: 02/18/2014)
02/18/2014	<a href="#"><u>3</u></a>	New Case Notes: A filing fee has been paid. File to Judge O Connor. Pursuant to Misc. Order 6, Plaintiff is provided the Notice of Right to Consent to Proceed Before A U.S. Magistrate Judge (Judge Roach). Clerk to provide copy to plaintiff if not received electronically. (plp) Modified on 2/18/2014 (plp). (Entered: 02/18/2014)
02/19/2014	<a href="#"><u>4</u></a>	Summons Issued as to All Defendants. (trt) (Entered: 02/19/2014)
02/19/2014	<a href="#"><u>5</u></a>	Report to Patent/Trademark Office of Initiating Document. Form AO 120 e-mailed to <a href="mailto:notice_of_suit@uspto.gov">notice_of_suit@uspto.gov</a> . (trt) (Entered: 02/19/2014)
02/19/2014	<a href="#"><u>6</u></a>	AMENDED COMPLAINT WITH JURY DEMAND against All Defendants filed by Summit 6 LLC. (Attachments: # <a href="#"><u>1</u></a> Exhibit(s), # <a href="#"><u>2</u></a> Exhibit(s), # <a href="#"><u>3</u></a> Exhibit(s)) (Cawley, Douglas) (Entered: 02/19/2014)
02/19/2014	<a href="#"><u>7</u></a>	NOTICE of Attorney Appearance by Phillip M Aurentz on behalf of Summit 6 LLC. (Filer confirms contact info in ECF is current.) (Aurentz, Phillip) (Entered: 02/19/2014)
03/04/2014	<a href="#"><u>8</u></a>	Unopposed Motion for Extension of Time to File Answer filed by Summit 6 LLC (Attachments: # <a href="#"><u>1</u></a> Proposed Order) (Kamprath, Richard) (Entered: 03/04/2014)
03/05/2014	9	ELECTRONIC ORDER granting <a href="#"><u>8</u></a> Motion for Extension of Time to File Answer. The deadline for the HTC Defendants to answer or otherwise respond is hereby extended to May 19, 2014. (Ordered by Judge Reed C O'Connor on 3/5/2014) (chmb) (Entered: 03/05/2014)
03/07/2014	<a href="#"><u>10</u></a>	Unopposed Motion for Extension of Time to File Answer <i>for Motorola Mobility</i> filed by Summit 6 LLC (Attachments: # <a href="#"><u>1</u></a> Proposed Order) (Kamprath, Richard) (Entered: 03/07/2014)
03/07/2014	<a href="#"><u>11</u></a>	SUMMONS Returned Executed as to HTC America Inc ; served on 2/26/2014. (Kamprath, Richard) Modified to exclude HTC Corporation per Attorney on 3/12/2014 (plp). (Entered: 03/07/2014)
03/07/2014	<a href="#"><u>12</u></a>	SUMMONS Returned Executed as to Apple Inc. ; served on 2/26/2014.

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		(Kamprath, Richard) (Entered: 03/07/2014)
03/07/2014	<a href="#">13</a>	SUMMONS Returned Executed as to Motorola Mobility LLC ; served on 2/26/2014. (Kamprath, Richard) (Entered: 03/07/2014)
03/07/2014	<a href="#">14</a>	SUMMONS Returned Executed as to LG Electronics MobileComm USA Inc ; served on 2/26/2014; LG Electronics USA Inc ; served on 2/25/2014. (Attachments: # <a href="#">1</a> Additional Page(s)) (Kamprath, Richard) Modified to exclude LG Electronics Inc per Atty on 3/7/2014 (plp). (Entered: 03/07/2014)
03/09/2014	15	ELECTRONIC ORDER granting <a href="#">10</a> Motion for Extension of Time to File Answer. The deadline for Defendant Motorola Motility to respond or otherwise answer is hereby extended to May 5, 2014. (Ordered by Judge Reed C O'Connor on 3/9/2014) (chmb) (Entered: 03/09/2014)
03/10/2014	<a href="#">16</a>	Unopposed Motion for Extension of Time to File Answer <i>Apple</i> filed by Summit 6 LLC (Attachments: # <a href="#">1</a> Proposed Order) (Kamprath, Richard) (Entered: 03/10/2014)
03/11/2014	<a href="#">17</a>	Unopposed Motion for Extension of Time to File Answer <i>LG Defendants</i> filed by Summit 6 LLC (Attachments: # <a href="#">1</a> Proposed Order) (Kamprath, Richard) (Entered: 03/11/2014)
03/11/2014	18	ELECTRONIC ORDER granting <a href="#">16</a> Motion for Extension of Time to File Answer. The deadline for Defendant Apple Inc. to file an answer or otherwise respond is hereby extended to May 5, 2014. (Ordered by Judge Reed C O'Connor on 3/11/2014) (chmb) (Entered: 03/11/2014)
03/12/2014	19	ELECTRONIC ORDER granting <a href="#">17</a> Motion for Extension of Time to File Answer. The deadline for the LG Defendants to answer or otherwise respond is hereby extended to May 19, 2014. (Ordered by Judge Reed C O'Connor on 3/12/2014) (chmb) (Entered: 03/12/2014)
03/13/2014	<a href="#">20</a>	SUMMONS Returned Executed as to Twitter Inc. ; served on 3/7/2014. (Kamprath, Richard) (Entered: 03/13/2014)
03/16/2014	<a href="#">21</a>	NOTICE of Attorney Appearance by Hilda C Galvan on behalf of Apple Inc.. (Filer confirms contact info in ECF is current.) (Galvan, Hilda) (Entered: 03/16/2014)
03/20/2014	<a href="#">22</a>	Unopposed Motion for Extension of Time to File Answer <i>Twitter</i> filed by Summit 6 LLC (Attachments: # <a href="#">1</a> Proposed Order) (Kamprath, Richard) (Entered: 03/20/2014)
03/21/2014	23	ELECTRONIC ORDER granting <a href="#">22</a> Motion for Extension of Time to File Answer. The deadline for Defendant Twitter to file an answer or other responsive pleading is hereby extended to May 5, 2014. (Ordered by Judge Reed C O'Connor on 3/21/2014) (chmb) (Entered: 03/21/2014)
03/21/2014	<a href="#">24</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-5927000) filed by Apple Inc. (Attachments: # <a href="#">1</a> Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Finkelstein, Mark) (Entered: 03/21/2014)
03/22/2014	25	ELECTRONIC ORDER granting <a href="#">24</a> Application for Admission Pro Hac Vice of

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		Mark Finkelstein. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 3/22/2014) (chmb) (Entered: 03/22/2014)
03/24/2014	<a href="#">26</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-5929104) filed by Apple Inc. (Attachments: # <a href="#">1</a> Certificate of Good Standing, # <a href="#">2</a> Proposed Amendment) (Rooklidge, William) (Entered: 03/24/2014)
03/25/2014	<a href="#">27</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-5931824) filed by Apple Inc. (Attachments: # <a href="#">1</a> Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Stover, Michelle) (Entered: 03/25/2014)
03/25/2014	<a href="#">28</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-5931981) filed by Apple Inc. (Attachments: # <a href="#">1</a> Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Clark, Douglas) (Entered: 03/25/2014)
03/26/2014	29	ELECTRONIC ORDER granting <a href="#">26</a> Application for Admission Pro Hac Vice of William C. Rooklidge. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 3/26/2014) (chmb) (Entered: 03/26/2014)
03/26/2014	30	ELECTRONIC ORDER granting <a href="#">27</a> Application for Admission Pro Hac Vice of Michelle Stover. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 3/26/2014) (chmb) (Entered: 03/26/2014)
03/26/2014	31	ELECTRONIC ORDER granting <a href="#">28</a> Application for Admission Pro Hac Vice of Douglas C. Clark. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 3/26/2014) (chmb) (Entered: 03/26/2014)
03/26/2014	<a href="#">32</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-5934737) filed by Apple Inc. (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Standing, # <a href="#">2</a> Proposed Order) (Cote, Frank) (Entered: 03/26/2014)
03/27/2014	33	ELECTRONIC ORDER granting <a href="#">32</a> Application for Admission Pro Hac Vice of Frank P. Cote. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 3/27/2014) (chmb) (Entered: 03/27/2014)
04/30/2014	<a href="#">34</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6008299) filed by Twitter Inc. (Attachments: # <a href="#">1</a> Affidavit(s) Certificate of the Clerk of the Supreme Court, # <a href="#">2</a> Proposed Order Order for Admission Pro Hac Vice) (Silbert, David) (Entered: 04/30/2014)
04/30/2014	<a href="#">35</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6008538) filed by Twitter Inc. (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Good Standing California Supreme Court, # <a href="#">2</a> Exhibit(s) Certificate of Good Standing California State Bar, # <a href="#">3</a>

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		Proposed Order) (Duncan, Julie) (Entered: 04/30/2014)
04/30/2014	<a href="#">36</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6009624) filed by Twitter Inc. (Attachments: # <a href="#">1</a> Affidavit(s) Cert. of Good Standing from Calif. Supreme Court, # <a href="#">2</a> Affidavit(s) Cert. of Good Standing (from Calif. State Bar), # <a href="#">3</a> Proposed Order) (Lam, Leo) (Entered: 04/30/2014)
05/01/2014	37	ELECTRONIC ORDER granting <a href="#">34</a> Application for Admission Pro Hac Vice of David J. Silbert. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/1/2014) (chmb) (Entered: 05/01/2014)
05/01/2014	38	ELECTRONIC ORDER granting <a href="#">35</a> Application for Admission Pro Hac Vice of Julie A. Duncan. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/1/2014) (chmb) (Entered: 05/01/2014)
05/01/2014	39	ELECTRONIC ORDER granting <a href="#">36</a> Application for Admission Pro Hac Vice of Leo L. Lam. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/1/2014) (chmb) (Entered: 05/01/2014)
05/01/2014	<a href="#">40</a>	NOTICE of Attorney Appearance by Brett C Govett on behalf of Twitter Inc.. (Filer confirms contact info in ECF is current.) (Govett, Brett) (Entered: 05/01/2014)
05/01/2014	<a href="#">41</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Bonnie M. Grant (Filing fee \$25; Receipt number 0539-6011489) filed by Motorola Mobility LLC (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Hurst, Michael) (Entered: 05/01/2014)
05/01/2014	<a href="#">42</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Akarsh P. Belagodu (Filing fee \$25; Receipt number 0539-6011550) filed by Motorola Mobility LLC (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Hurst, Michael) (Entered: 05/01/2014)
05/01/2014	<a href="#">43</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney D. Clay Holloway (Filing fee \$25; Receipt number 0539-6011584) filed by Motorola Mobility LLC (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Hurst, Michael) (Entered: 05/01/2014)
05/01/2014	<a href="#">44</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Steven D. Moore (Filing fee \$25; Receipt number 0539-6011601) filed by Motorola Mobility LLC (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Good Standing California Supreme Court, # <a href="#">2</a> Exhibit(s) Certificate of Good Standing Georgia Supreme Court, # <a href="#">3</a> Exhibit(s) List of Court Admissions, # <a href="#">4</a> Proposed Order) (Hurst, Michael) (Entered: 05/01/2014)
05/02/2014	45	ELECTRONIC ORDER granting <a href="#">41</a> Application for Admission Pro Hac Vice of Bonnie M. Grant. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/2/2014) (chmb) (Entered: 05/02/2014)
05/02/2014	46	ELECTRONIC ORDER granting <a href="#">42</a> Application for Admission Pro Hac Vice of



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		Akarsh B. Belagodu. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/2/2014) (chmb) (Entered: 05/02/2014)
05/02/2014	<a href="#">47</a>	ELECTRONIC ORDER granting <a href="#">43</a> Application for Admission Pro Hac Vice of D. Clay Holloway. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/2/2014) (chmb) (Entered: 05/02/2014)
05/02/2014	<a href="#">48</a>	ELECTRONIC ORDER granting <a href="#">44</a> Application for Admission Pro Hac Vice of Steven Moore. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/2/2014) (chmb) (Entered: 05/02/2014)
05/05/2014	<a href="#">49</a>	ANSWER to <a href="#">6</a> Amended Complaint with Jury Demand filed by Apple Inc.. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> . (Galvan, Hilda) (Entered: 05/05/2014)
05/05/2014	<a href="#">50</a>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Apple Inc.. (Galvan, Hilda) (Entered: 05/05/2014)
05/05/2014	<a href="#">51</a>	ANSWER to <a href="#">6</a> Amended Complaint filed by Motorola Mobility LLC. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> ., COUNTERCLAIM against All Plaintiffs filed by Motorola Mobility LLC (Sandler, Joshua) (Entered: 05/05/2014)
05/05/2014	<a href="#">52</a>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Motorola Mobility LLC identifying Corporate Parent/Other Affiliate Google Inc. for Motorola Mobility LLC. (Sandler, Joshua) (Entered: 05/05/2014)
05/05/2014	<a href="#">53</a>	ANSWER to <a href="#">6</a> Amended Complaint with Jury Demand filed by Twitter Inc.. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> ., COUNTERCLAIM against Summit 6 LLC filed by Twitter Inc. (Silbert, David) (Entered: 05/05/2014)
05/05/2014	<a href="#">54</a>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by Twitter Inc.. (Silbert, David) (Entered: 05/05/2014)
05/07/2014	<a href="#">55</a>	Order for Scheduling Order Proposal: Joint Report due by 6/9/2014. See Order for further specifics. (Ordered by Judge Reed C O'Connor on 5/7/2014) (trt) (Entered: 05/07/2014)
05/14/2014	<a href="#">56</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6037801) filed by HTC America Inc, HTC Corporation (Attachments: # <a href="#">1</a> Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Ou, Philip) (Entered: 05/14/2014)

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05/14/2014	57	ELECTRONIC ORDER granting <a href="#">56</a> Application for Admission Pro Hac Vice of Philip Ou. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/14/2014) (chmb) (Entered: 05/14/2014)
05/15/2014	<a href="#">58</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Bryan K. James (Filing fee \$25; Receipt number WF001878) filed by HTC America Inc, HTC Corporation (Attachments: # <a href="#">1</a> Proposed Order) (plp) (Entered: 05/15/2014)
05/15/2014	<a href="#">59</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Shayne E. O'Reilly (Filing fee \$25; Receipt number 0539-6042829) filed by Motorola Mobility LLC (Attachments: # <a href="#">1</a> Exhibit(s) Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Hurst, Michael) (Entered: 05/15/2014)
05/16/2014	60	ELECTRONIC ORDER granting <a href="#">58</a> Application for Admission Pro Hac Vice of Bryan K. James. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/16/2014) (chmb) (Entered: 05/16/2014)
05/16/2014	61	ELECTRONIC ORDER granting <a href="#">59</a> Application for Admission Pro Hac Vice of Shayne E. O'Reilly. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/16/2014) (chmb) (Entered: 05/16/2014)
05/16/2014	<a href="#">62</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6045618) filed by HTC America Inc, HTC Corporation (Attachments: # <a href="#">1</a> Certificate of Good Standing, # <a href="#">2</a> Proposed Order) (Rassam, Mashhood) (Entered: 05/16/2014)
05/17/2014	63	ELECTRONIC ORDER granting <a href="#">62</a> Application for Admission Pro Hac Vice of Mashhood Rassam. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/17/2014) (chmb) (Entered: 05/17/2014)
05/19/2014	<a href="#">64</a>	ANSWER to <a href="#">6</a> Amended Complaint with Jury Demand filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> . (Sterling, Deborah) (Entered: 05/19/2014)
05/19/2014	<a href="#">65</a>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc. (Sterling, Deborah) (Entered: 05/19/2014)
05/19/2014	<a href="#">66</a>	ANSWER to <a href="#">6</a> Amended Complaint with Jury Demand filed by HTC America Inc, HTC Corporation. Unless exempted, attorneys who are not admitted to practice in the Northern District of Texas should seek admission promptly. Forms, instructions, and exemption information may be found at <a href="http://www.txnd.uscourts.gov">www.txnd.uscourts.gov</a> , or by clicking here: <a href="#">Attorney Information - Bar Membership</a> ., COUNTERCLAIM against Summit 6 LLC filed by HTC America Inc, HTC Corporation (Chaikovsky, Yar) (Entered: 05/19/2014)



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05/19/2014	<a href="#">67</a>	CERTIFICATE OF INTERESTED PERSONS/DISCLOSURE STATEMENT by HTC America Inc, HTC Corporation identifying Corporate Parent/Other Affiliate HTC Corporation for HTC America Inc. (Chaikovsky, Yar) (Entered: 05/19/2014)
05/20/2014	<a href="#">68</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6050983) filed by HTC America Inc, HTC Corporation (Attachments: # <a href="#">1</a> Certificate of Standing, # <a href="#">2</a> Proposed Order) (Ong, Darryl) (Entered: 05/20/2014)
05/21/2014	69	ELECTRONIC ORDER granting <a href="#">68</a> Application for Admission Pro Hac Vice of Darryl Ong. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/21/2014) (chmb) (Entered: 05/21/2014)
05/22/2014	<a href="#">70</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing (Filing fee \$25; Receipt number 0539-6056581) filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Stillman, Stacey) (Entered: 05/22/2014)
05/23/2014	71	ELECTRONIC ORDER granting <a href="#">70</a> Application for Admission Pro Hac Vice of Stacey Stillman. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/23/2014) (chmb) (Entered: 05/23/2014)
05/23/2014	<a href="#">72</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Steven J. Routh (Filing fee \$25; Receipt number 0539-6058566) filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Stillman, Stacey) (Entered: 05/23/2014)
05/23/2014	<a href="#">73</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Robert M. Isackson (Filing fee \$25; Receipt number 0539-6058583) filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Stillman, Stacey) (Entered: 05/23/2014)
05/23/2014	<a href="#">74</a>	ANSWER to Counterclaim filed by Summit 6 LLC. Related document: <a href="#">53</a> Answer to Amended Complaint,, Counterclaim,, (Kamprath, Richard) (Entered: 05/23/2014)
05/23/2014	<a href="#">75</a>	ANSWER to Counterclaim filed by Summit 6 LLC. Related document: <a href="#">51</a> Answer to Amended Complaint,, Counterclaim,, (Kamprath, Richard) (Entered: 05/23/2014)
05/24/2014	76	ELECTRONIC ORDER granting <a href="#">72</a> Application for Admission Pro Hac Vice of Steven J. Routh. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/24/2014) (chmb) (Entered: 05/24/2014)
05/24/2014	77	ELECTRONIC ORDER granting <a href="#">73</a> Application for Admission Pro Hac Vice of Robert Isackson. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/24/2014) (chmb) (Entered: 05/24/2014)
05/27/2014	<a href="#">78</a>	Application for Admission Pro Hac Vice with Certificate of Good Standing for Attorney Hsiwen Lo (Filing fee \$25; Receipt number 0539-6062376) filed by LG

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		Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Stillman, Stacey) (Entered: 05/27/2014)
05/27/2014	79	ELECTRONIC ORDER granting <a href="#">78</a> Application for Admission Pro Hac Vice of Hsiwen Lo. If not already done, Applicant must register as an ECF User within 14 days (LR 5.1(f)). (Ordered by Judge Reed C O'Connor on 5/27/2014) (chmb) (Entered: 05/27/2014)
05/27/2014	<a href="#">80</a>	<i>Motorola Mobility LLC's</i> AMENDED ANSWER to <a href="#">6</a> Amended Complaint with Jury Demand filed by Motorola Mobility LLC, COUNTERCLAIM against Summit 6 LLC filed by Motorola Mobility LLC (Grant, Bonnie) (Entered: 05/27/2014)
05/27/2014	<a href="#">81</a>	AMENDED ANSWER to <a href="#">6</a> Amended Complaint with Jury Demand filed by Apple Inc. (Cote, Frank) (Entered: 05/28/2014)
05/29/2014	<a href="#">82</a>	Notice of Correction of Signature Omission, correcting signature omission in <a href="#">81</a> Amended Answer to Complaint filed by Apple Inc.. (Cote, Frank) (Entered: 05/29/2014)
06/04/2014	<a href="#">83</a>	ANSWER to Counterclaim filed by Summit 6 LLC. Related document: <a href="#">66</a> Answer to Amended Complaint,, Counterclaim,, (Sibley, Mitchell) (Entered: 06/04/2014)
06/04/2014	<a href="#">84</a>	ANSWER to Counterclaim filed by Summit 6 LLC. Related document: <a href="#">80</a> Amended Answer to Complaint, Counterclaim (Sibley, Mitchell) (Entered: 06/04/2014)
06/09/2014	<a href="#">85</a>	NOTICE of <i>Compliance regarding Initial Disclosures</i> filed by Apple Inc. (Clark, Douglas) (Entered: 06/09/2014)
06/09/2014	<a href="#">86</a>	Joint MOTION to Extend Time for the Parties to File a Joint Report and Exchange Initial Disclosures filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Summit 6 LLC, Twitter Inc. (Attachments: # <a href="#">1</a> Proposed Order) (Aurentz, Phillip) (Entered: 06/09/2014)
06/09/2014	<a href="#">87</a>	NOTICE of <i>Compliance</i> filed by Summit 6 LLC (Kamprath, Richard) (Entered: 06/09/2014)
06/10/2014	88	ELECTRONIC ORDER granting <a href="#">86</a> Motion to Extend Time. The deadline for the parties' Joint Report is hereby extended to June 11, 2014. The deadline for the parties to serve their Initial Disclosures is hereby extended to June 20, 2014. (Ordered by Judge Reed C O'Connor on 6/10/2014) (chmb) (Entered: 06/10/2014)
06/10/2014	<a href="#">89</a>	Joint MOTION to Transfer Case out of District/Division <i>Defendants' Motion to Transfer to the Northern District of California</i> filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. (Attachments: # <a href="#">1</a> Proposed Order) (Silbert, David) (Entered: 06/10/2014)
06/10/2014	<a href="#">90</a>	Brief/Memorandum in Support filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re <a href="#">89</a> Joint MOTION to Transfer Case out of District/Division <i>Defendants' Motion to Transfer to the</i>

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		<i>Northern District of California</i> (Attachments: # <a href="#">1</a> Unpublished Case Law) (Silbert, David) (Entered: 06/10/2014)
06/10/2014	<a href="#">91</a>	Appendix in Support filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re <a href="#">89</a> Joint MOTION to Transfer Case out of District/Division <i>Defendants' Motion to Transfer to the Northern District of California</i> , <a href="#">90</a> Brief/Memorandum in Support of Motion, (Attachments: # <a href="#">1</a> Pt. 1 - APPX001-102, # <a href="#">2</a> Pt. 2 - APPX103-162, # <a href="#">3</a> Pt. 3 - APPX163-203, # <a href="#">4</a> Pt. 4 - APPX 204-236, # <a href="#">5</a> Pt. 5 - APPX 237-301) (Silbert, David) (Entered: 06/10/2014)
06/11/2014	<a href="#">92</a>	Proposal for contents of scheduling and discovery order by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Summit 6 LLC, Twitter Inc.. (Attachments: # <a href="#">1</a> Exhibit(s) Scheduling Order, # <a href="#">2</a> Exhibit(s) Discovery Order, # <a href="#">3</a> Exhibit(s) ESI Order) (Cawley, Douglas) (Entered: 06/11/2014)
06/12/2014	<a href="#">93</a>	SCHEDULING ORDER: Jury Trial set for 11/30/2015 09:00 AM in US Courthouse, Courtroom 222, 1000 Lamar Street, Wichita Falls, TX 76301-3431 before Judge Reed C O'Connor. Joinder of Parties due by 9/10/2014. Amended Pleadings due by 9/10/2014. Motions due by 8/3/2015. Deadline for mediation is on or before 6/3/2015. Discovery due by 7/3/2015. Pretrial Materials due by 10/21/2015. Pretrial Order due by 10/21/2015. (Ordered by Judge Reed C O'Connor on 6/12/2014) (trt) (Entered: 06/12/2014)
06/12/2014	<a href="#">94</a>	ORDER: Attached as exhibits to the parties' Joint Report Regarding Contents of Scheduling Order ("Joint Report") (ECF No. <a href="#">92</a> ) are: Joint Motion for Entry of a Discovery Order (Exhibit B) (ECF No. [92-2]) and Joint Motion for Entry of an ESI Order (Exhibit C) (ECF No. [92-3]). In order for the Court to consider these exhibits as motions, and grant any relief sought, the joint motions must be filed as separate docket entries, rather than merely as exhibits appended to the Joint Motion. Accordingly, the Court directs the parties to file as separate docket entries the Joint Motion for Entry of a Discovery Order and the Joint Motion for Entry of an ESI Order, on or before Friday, June 13, 2014 at 3:00 p.m. (Ordered by Judge Reed C O'Connor on 6/12/2014) (plp) (Entered: 06/12/2014)
06/13/2014	<a href="#">95</a>	Joint MOTION for Discovery <i>Order</i> filed by Summit 6 LLC (Attachments: # <a href="#">1</a> Exhibit(s) Proposed Order) (Cawley, Douglas) (Entered: 06/13/2014)
06/13/2014	<a href="#">96</a>	Joint MOTION for Discovery <i>ESI Order</i> filed by Summit 6 LLC (Attachments: # <a href="#">1</a> Exhibit(s) Proposed Order) (Cawley, Douglas) (Entered: 06/13/2014)
06/13/2014	<a href="#">97</a>	Order Referring Motion. re: <a href="#">96</a> Joint MOTION for Discovery <i>ESI Order</i> , <a href="#">95</a> Joint MOTION for Discovery <i>Order</i> Motion(s) referred to Magistrate Judge Robert K Roach. (Ordered by Judge Reed C O'Connor on 6/13/2014) (trt) (Entered: 06/13/2014)
06/17/2014	<a href="#">98</a>	DISCOVERY ORDER: Pursuant to the District Court's Order Referring Motion (Docket No. <a href="#">97</a> ), comes on for consideration the Joint Motion for Discovery Order (Docket No. <a href="#">95</a> ). Having considered the said motion together with the Proposal for Scheduling Order (Docket No. <a href="#">92</a> ) reflecting matters of agreement among the parties, I find that the following order should be entered to govern

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		certain matters of discovery in this cause. (Ordered by Magistrate Judge Robert K Roach on 6/17/2014) (plp) (Entered: 06/17/2014)
06/17/2014	<a href="#">99</a>	ORDER FOR SCHEDULING TELEPHONIC HEARING: Pursuant to the District Court's Order Referring Motion, comes now before me for consideration the parties' Joint Motion for Discovery ESI Order (Docket No. <a href="#">96</a> ). To assist the Court in the resolution of the issues in dispute regarding the manner and content of production of electronically store information (ESI), a telephonic hearing shall be promptly scheduled. See order for further specifics. (Ordered by Magistrate Judge Robert K Roach on 6/17/2014) (plp) (Entered: 06/17/2014)
06/18/2014	<a href="#">100</a>	Joint MOTION for Protective Order filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Summit 6 LLC, Twitter Inc. (Attachments: # <a href="#">1</a> Proposed Order, # <a href="#">2</a> Exhibit(s) Case Law, # <a href="#">3</a> Exhibit(s) Case Law, # <a href="#">4</a> Exhibit(s) Case Law) (Cawley, Douglas) (Entered: 06/18/2014)
06/19/2014	<a href="#">101</a>	Order Referring Motion re: <a href="#">100</a> Joint MOTION for Protective Order Motion(s) referred to Magistrate Judge Robert K Roach. (Ordered by Judge Reed C O'Connor on 6/19/2014) (trt) (Entered: 06/19/2014)
06/19/2014	<a href="#">102</a>	ORDER: In light of the numerous disputes between the parties in their Joint Motion for Protective Order filed June 18, 2014 (see ECF No. 100), the Court concludes that the proposed interim protective order is warranted. Accordingly, the Court directs Plaintiff to submit the proposed protective order in Word or Wordperfect format via e-mail to: oconnor_orders@txnd.uscourts.gov. and to include the case number and the document number of the referenced motion in the subject line. (Ordered by Judge Reed C O'Connor on 6/19/2014) (trt) (Entered: 06/19/2014)
06/20/2014	103	ELECTRONIC ORDER SETTING HEARING VIA TELEPHONE CONFERENCE: It is ORDERED that a telephone conference hearing re: <a href="#">96</a> Joint MOTION for Discovery <i>ESI Order</i> and <a href="#">100</a> Joint MOTION for Protective Order is hereby set for 10:00 am on Thursday, June 26, 2014. Plaintiff's counsel shall be responsible for initiating said telephone conference to the Court's courtroom telephone at (940) 235-4751. Please include Ferialle Millen at (214) 753-2651 in the conference call. The hearing will be recorded using the Court's FTR System. Counsel requesting stenographic reporting of the proceeding shall make his own arrangements for a reporter at counsel's own cost and expense. (Ordered by Magistrate Judge Robert K Roach on 6/20/2014) (mjchmb - plp) (Entered: 06/20/2014)
06/20/2014	<a href="#">104</a>	NOTICE of <i>Compliance</i> filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Lo, Hsiwen) (Entered: 06/20/2014)
06/20/2014	<a href="#">105</a>	NOTICE of <i>Compliance</i> filed by Motorola Mobility LLC (Hurst, Michael) (Entered: 06/20/2014)
06/20/2014	<a href="#">106</a>	NOTICE of <i>Service of Initial Disclosures</i> filed by Twitter Inc. (Duncan, Julie) (Entered: 06/20/2014)
06/24/2014	<a href="#">107</a>	PROTECTIVE ORDER. (Ordered by Judge Reed C O'Connor on 6/24/2014) (trt) (Entered: 06/24/2014)

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06/25/2014	<a href="#">108</a>	NOTICE of Attorney Appearance by E Leon Carter on behalf of HTC America Inc, HTC Corporation. (Filer confirms contact info in ECF is current.) (Carter, E) (Entered: 06/25/2014)
06/25/2014	<a href="#">109</a>	NOTICE of Attorney Appearance by Linda R Stahl on behalf of HTC America Inc, HTC Corporation. (Filer confirms contact info in ECF is current.) (Stahl, Linda) (Entered: 06/25/2014)
06/25/2014	<a href="#">110</a>	NOTICE of <i>Compliance</i> filed by HTC America Inc, HTC Corporation (Stahl, Linda) (Entered: 06/25/2014)
06/25/2014	<a href="#">111</a>	MOTION to Sever filed by Apple Inc. (Attachments: # <a href="#">1</a> Proposed Order) (Galvan, Hilda) (Entered: 06/25/2014)
06/25/2014	<a href="#">112</a>	Brief/Memorandum in Support filed by Apple Inc. re <a href="#">111</a> MOTION to Sever (Galvan, Hilda) (Entered: 06/25/2014)
06/25/2014	<a href="#">113</a>	Appendix in Support filed by Apple Inc. re <a href="#">112</a> Brief/Memorandum in Support of Motion, <a href="#">111</a> MOTION to Sever (Galvan, Hilda) (Entered: 06/25/2014)
06/26/2014	114	ELECTRONIC Minute Entry for proceedings held before Magistrate Judge Robert K Roach: Motion Hearing via Telephone Conference held on 6/26/2014 re <a href="#">96</a> Motion for Discovery ESI Order, <a href="#">100</a> Motion for Protective Order. ESI Order and Protective Order will be prepared and filed. Attorney Appearances: Plaintiff - Ashley N Moore, Douglas A Cawley; Defense - Apple Inc. - Hilda C Galvan; LG - Deborah L Sterling, Stacey E Stillman, Steven J Routh; HTC - Philip Ou, Yar R Chaikovsky; Twitter Inc - Leo L Lam, Julie Anne Duncan, Ryan Peterson; Motorola Mobility LLC - D Clay Holloway, Steve Hopkins. (Court Reporter: Digital File) (No exhibits) Time in Court - 2:45. (plp) (Entered: 06/26/2014)
06/26/2014	<a href="#">115</a>	PROTECTIVE ORDER REGARDING THE DISCLOSURE AND USE OF DISCOVERY MATERIALS (Ordered by Magistrate Judge Robert K Roach on 6/26/2014) (plp) (Entered: 06/26/2014)
06/26/2014	<a href="#">116</a>	ESI ORDER (Ordered by Magistrate Judge Robert K Roach on 6/26/2014) (plp) (Entered: 06/26/2014)
06/27/2014	<a href="#">117</a>	NOTICE of <i>Compliance</i> filed by Summit 6 LLC (Sibley, Mitchell) (Entered: 06/27/2014)
07/01/2014	<a href="#">118</a>	RESPONSE filed by Summit 6 LLC re: <a href="#">89</a> Joint MOTION to Transfer Case out of District/Division <i>Defendants' Motion to Transfer to the Northern District of California</i> (Attachments: # <a href="#">1</a> Exhibit(s), # <a href="#">2</a> Case Law) (Cawley, Douglas) (Entered: 07/01/2014)
07/15/2014	<a href="#">119</a>	REPLY filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re: <a href="#">89</a> Joint MOTION to Transfer Case out of District/Division <i>Defendants' Motion to Transfer to the Northern District of California</i> (Stover, Michelle) (Entered: 07/15/2014)
07/15/2014	<a href="#">120</a>	Appendix in Support filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re <a href="#">119</a> Reply, <i>Motion to Transfer</i> (Stover, Michelle) (Entered: 07/15/2014)



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07/15/2014	<a href="#">121</a>	Appendix in Support filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re <a href="#">119</a> Reply, <i>Motion to Transfer</i> (Stover, Michelle) (Entered: 07/15/2014)
07/16/2014	<a href="#">122</a>	RESPONSE filed by Summit 6 LLC re: <a href="#">111</a> MOTION to Sever (Attachments: # <a href="#">1</a> Appendix, # <a href="#">2</a> Case Law) (Cawley, Douglas) (Entered: 07/16/2014)
07/30/2014	<a href="#">123</a>	REPLY filed by Apple Inc. re: <a href="#">111</a> MOTION to Sever (Galvan, Hilda) (Entered: 07/30/2014)
07/30/2014	<a href="#">124</a>	***Disregard, counsel will refile*** Appendix in Support filed by Apple Inc. re <a href="#">123</a> Reply <i>Brief Supporting its Motion to Sever</i> (Galvan, Hilda) Modified on 7/30/2014 (twd). (Entered: 07/30/2014)
07/30/2014	<a href="#">125</a>	Appendix in Support filed by Apple Inc. re <a href="#">123</a> Reply <i>Brief Supporting its Motion to Sever</i> (Galvan, Hilda) (Entered: 07/30/2014)
07/30/2014	<a href="#">126</a>	Appendix in Support filed by Apple Inc. re <a href="#">123</a> Reply <i>Brief Supporting its Motion to Sever, Unpublished Authorities</i> (Attachments: # <a href="#">1</a> Additional Page(s) Exhibits 1-8 of Appendix, # <a href="#">2</a> Additional Page(s) Exhibit 9 of Appendix) (Galvan, Hilda) (Entered: 07/30/2014)
08/04/2014	<a href="#">127</a>	MOTION for Protective Order <i>Against Disclosure of Defendants' Protected Information to Dr. Mark T. Jones</i> filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Attachments: # <a href="#">1</a> Proposed Order Against Disclosure) (Lo, Hsiwen) (Entered: 08/04/2014)
08/04/2014	<a href="#">128</a>	Brief/Memorandum in Support filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc re <a href="#">127</a> MOTION for Protective Order <i>Against Disclosure of Defendants' Protected Information to Dr. Mark T. Jones and Objections</i> (Lo, Hsiwen) (Entered: 08/04/2014)
08/04/2014	<a href="#">129</a>	Appendix in Support filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc re <a href="#">128</a> Brief/Memorandum in Support of Motion, <a href="#">127</a> <i>Objections and Motion for Protective Order</i> (Attachments: # <a href="#">1</a> Appendix Attachment) (Lo, Hsiwen) (Entered: 08/04/2014)
08/05/2014	<a href="#">130</a>	ORDER OF REFERRAL: Before the Court is LGE Defendants Motion for Protective Order Against Disclosure of Defendants' Protected Information to Dr. Mark T. Jones, filed August 4, 2014 (ECF No. <a href="#">127</a> ). The Court hereby REFERS the motion, and all related responses, replies, briefs in support, appendices, etc., to United States Magistrate Judge Robert K. Roach for hearing, if necessary, and determination. See 28 U.S.C. § 636(b)(1). Future pleadings concerning these specific motions shall be filed with a transmittal letter addressed to Magistrate Judge Roach so copies can be sent directly to him without delay. (Ordered by Judge Reed C O'Connor on 8/5/2014) (plp) (Entered: 08/05/2014)
08/07/2014	<a href="#">131</a>	ORDER SCHEDULING TELEPHONIC HEARING: It is ORDERED that a telephone conference hearing is hereby scheduled for Thursday, August 14, 2014 at 10:00 a.m. CST. Counsel for LGE Defendants shall initiate the conference call to the Court at (940) 235-4751. The Courts law clerk, Feriale Millen, at (214) 753-2651, shall be included in the telephone conference. (Ordered by Magistrate Judge Robert K Roach on 8/7/2014) (plp) (Entered: 08/07/2014)

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08/11/2014	<a href="#">132</a>	NOTICE of <i>Compliance</i> filed by LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc (Lo, Hsiwen) (Entered: 08/11/2014)
08/11/2014	<a href="#">133</a>	NOTICE of <i>Compliance</i> filed by Apple Inc. (Clark, Douglas) (Entered: 08/11/2014)
08/12/2014	<a href="#">134</a>	NOTICE of <i>Compliance</i> filed by Motorola Mobility LLC (Grant, Bonnie) (Entered: 08/12/2014)
08/12/2014	<a href="#">135</a>	NOTICE of <i>Compliance</i> re: <a href="#">93</a> Scheduling Order, filed by Twitter Inc. (Silbert, David) (Entered: 08/12/2014)
08/12/2014	<a href="#">136</a>	NOTICE of <i>Compliance</i> filed by HTC America Inc, HTC Corporation (Ou, Philip) (Entered: 08/12/2014)
08/14/2014	<a href="#">137</a>	ORDER ON <a href="#">127</a> LGE DEFENDANTS' OBJECTIONS AND MOTIONFOR PROTECTIVE ORDER: LGE Defendants Objections and Motion for Protective Order (Docket No. 127) are hereby DENIED. (Ordered by Magistrate Judge Robert K Roach on 8/14/2014) (plp) (Entered: 08/14/2014)
08/25/2014	<a href="#">138</a>	NOTICE of <i>Compliance</i> filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. (Duncan, Julie) (Entered: 08/25/2014)
08/26/2014	<a href="#">139</a>	Unopposed MOTION to Withdraw as Attorney , <i>Michelle Stover</i> filed by Apple Inc. (Attachments: # <a href="#">1</a> Proposed Order) (Galvan, Hilda) (Entered: 08/26/2014)
08/26/2014	140	ELECTRONIC ORDER granting <a href="#">139</a> Motion to Withdraw as Attorney. Attorney Michelle Stover terminated (Ordered by Judge Reed C O'Connor on 8/26/2014) (chmb) (Entered: 08/26/2014)
08/26/2014	<a href="#">141</a>	NOTICE of <i>Compliance</i> filed by Summit 6 LLC (Cawley, Douglas) (Entered: 08/26/2014)
09/07/2014	<a href="#">142</a>	Notice of Filing of Official Electronic Transcript of Telephone Conference re Motion for Discovery ESI Order and Motion for Protective Order Proceedings held on 06/26/2014 before Judge Robert K. Roach. Court Reporter/Transcriber Kathy Rehling, kathyrehlingtranscripts@gmail.com, Telephone number 972-786-3063. Parties are notified of their <a href="#">duty to review</a> the transcript. A copy may be purchased from the court reporter or viewed at the clerk's office public terminal. If redaction is necessary, a <a href="#">Redaction Request - Transcript</a> must be filed within 21 days. If no such Request is filed, the transcript will be made available via PACER without redaction after 90 calendar days. If redaction request filed, this transcript will not be accessible via PACER; see redacted transcript. The clerk will mail a copy of this notice to parties not electronically noticed. (98 pages). Redaction Request due 9/29/2014. Redacted Transcript Deadline set for 10/8/2014. Release of Transcript Restriction set for 12/8/2014. (Rehling, Kathy) (Entered: 09/07/2014)
09/10/2014	<a href="#">143</a>	Memorandum Opinion and Order: Based on the foregoing, the Court denies Defendants Motion to Transfer to the Northern District of California, and grants in

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		part and denies in part Defendant Apple Inc.s Motion to Sever. Specifically, Apple Inc.s motion to sever is granted and its motion to transfer venue is denied. The Court orders that all claims against Defendant Apple be severed into a separate cause of action. The Court further orders the above-severed case consolidated with the original filed action, Cause No. 7-14-cv-0014-O, which is the lead case. All parties are instructed to file any future motions in the lead case. The severed action remains active for trial. (Ordered by Judge Reed C O'Connor on 9/10/2014) (trt) (Entered: 09/10/2014)
09/10/2014		MEMBER CASE (7-14-cv-106-O Summit 6 LLC v Apple Inc) opened and consolidated into LEAD CASE 7-14-cv-014-O per <a href="#">143</a> Memorandum Opinion and Order. (trt) (Entered: 09/11/2014)
09/11/2014	<a href="#">144</a>	NOTICE of Attorney Appearance by Colleen Elizabeth Bloss on behalf of All Plaintiffs. (Filer confirms contact info in ECF is current.) (Bloss, Colleen) (Entered: 09/11/2014)
09/22/2014	<a href="#">145</a>	***DISREGARD PER ATTORNEYS***MOTION To Limit Number of Asserted Claims filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. (Attachments: # <a href="#">1</a> Proposed Order) (Duncan, Julie) Modified text per chambers on 9/24/2014 (trt). (Entered: 09/22/2014)
09/22/2014	<a href="#">146</a>	***DISREGARD PER ATTORNEYS***Brief/Memorandum in Support filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re <a href="#">145</a> MOTION To Limit Number of Asserted Claims (Attachments: # <a href="#">1</a> Exhibit(s) Appendix of Unpublished Authorities) (Duncan, Julie) Modified text per chambers on 9/24/2014 (trt). (Entered: 09/22/2014)
09/22/2014	<a href="#">147</a>	***DISREGARD PER ATTORNEYS***Appendix in Support filed by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Twitter Inc. re <a href="#">145</a> MOTION To Limit Number of Asserted Claims (Duncan, Julie) Modified text per chambers on 9/24/2014 (trt). (Entered: 09/22/2014)
10/01/2014	<a href="#">148</a>	Joint STIPULATION <i>Regarding Reducing the Number of Asserted Claims and Prior Art References</i> by Apple Inc., HTC America Inc, HTC Corporation, LG Electronics Inc, LG Electronics MobileComm USA Inc, LG Electronics USA Inc, Motorola Mobility LLC, Summit 6 LLC, Twitter Inc.. (Ou, Philip) (Entered: 10/01/2014)

PACER Service Center			
Transaction Receipt			
10/15/2014 14:14:50			
PACER Login:	kv0743:4029684:0	Client Code:	summit6
Description:	Docket Report	Search Criteria:	7:14-cv-00014-O
Billable Pages:	26	Cost:	2.60





image-transfer software that allowed users to transfer pictures from their cameras to their computers. Through its partnerships with Kodak, Casio, Epson, Fuji and others, PictureWorks was able to bundle its software with the leading digital imagery hardware of the day, reaching users all across America.

2. Although their camera-to-computer software was successful, the inventors recognized the next hurdle users would face: sharing images with others over a network. Noticing the difficulties the digital imaging industry encountered on this front, the inventors devoted their expertise to developing a simple solution to this problem. This solution culminated in the ideas patented in U.S. Patent Nos. 6,895,557 (“the ’557 Patent”), 7,765,482 (“the ’482 Patent”), and 8,612,515 (“the ’515 Patent”) (collectively “the Patents-in-Suit”).

3. Summit 6’s patented ideas help countless users and companies easily and efficiently transfer digital content such as digital photos. Websites and smartphone manufacturers such as eBay, Facebook, The Dallas Morning News, Cars.com, Yellowpages.com, The New York Times, Photobucket, and Blackberry (formerly Research in Motion) have all recognized the value associated with Summit 6’s technology and have taken licenses to the Patents-in-Suit. And in April 2013, a jury validated Summit 6’s innovation by finding that the multimedia messaging service (“MMS”) on Samsung’s phones infringed Summit 6’s ’482 Patent.

### **PARTIES**

4. Plaintiff Summit 6 is a Delaware limited liability company with its principal place of business at 4925 Greenville Ave., Suite 200, Dallas, Texas 75206.

5. Defendant HTC Corp. is a Taiwanese corporation with its principal place of business at No. 88, Section 3, Zhongxing Road, Xindian District, New Taipei City, 231, Taiwan. HTC Corp. designs, manufactures, uses, imports into the United States, sells, and/or offers for

sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages (“MMS messages”), applications, Application Programming Interfaces (“APIs”), and/or functionality added to the native content sharing options (collectively “upload services and/or devices”). HTC Corp.’s upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. HTC Corp. can be served with process by way of letters rogatory, in accordance with Fed. R. Civ. P. 4(f).

6. Defendant HTC America is a Washington corporation with its principal place of business at 13920 SE Eastgate Way, Suite 400, Bellevue, Washington 98005. HTC America designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages (“MMS messages”), applications, Application Programming Interfaces (“APIs”), and/or functionality added to the native content sharing options (collectively “upload services and/or devices”). HTC America’s upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. HTC America can be served with process by serving National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

7. Defendant LGE Inc. is a Korean corporation with its principal place of business at LG Twin Tower 128, Yeoui-daero, Yengdeungpo-gu, Seoul 150-721, Korea. LGE Inc. designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages (“MMS messages”), applications, Application Programming Interfaces (“APIs”), and/or functionality added to the native content sharing options (collectively “upload services and/or devices”). LGE

Inc.'s upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. LGE Inc. can be served with process, by serving in accordance with the Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents, in accordance with Fed. R. Civ. P. 4(f).

8. Defendant LGE USA is a Delaware corporation with its principal place of business at 920 Sylvan Avenue, Englewood Cliffs, New Jersey 07632. LGE USA designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages ("MMS messages"), applications, Application Programming Interfaces ("APIs"), and/or functionality added to the native content sharing options (collectively "upload services and/or devices"). LGE USA's upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. LGE USA can be served with process by serving United States Corporation Company, 211 E. 7th Street Suite 620, Austin, Texas 78701.

9. Defendant LGE MobileComm is a California corporation with its principal place of business at 10101 Old Grove Road, San Diego, CA 92131. LGE MobileComm designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages ("MMS messages"), applications, Application Programming Interfaces ("APIs"), and/or functionality added to the native content sharing options (collectively "upload services and/or devices"). LGE MobileComm's upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. LGE MobileComm can be served

with process by serving National Registered Agents, Inc., 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

10. Defendant Motorola is a Delaware corporation with its principal place of business at 600 North U.S. Highway 45, Libertyville, Illinois 60048. Motorola designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages (“MMS messages”), applications, Application Programming Interfaces (“APIs”), and/or functionality added to the native content sharing options (collectively “upload services and/or devices”). Motorola’s upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. Motorola can be served with process by serving CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

11. Defendant Apple is a California corporation, with its principal place of business at 1 Infinite Loop, M/S 38-3TX, Cupertino, California 95014. Apple designs, manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States cell phones, tablets, and other computing devices that obtain digital content, pre-process it, and transmit it to another device, server, or location via multimedia messages (“MMS messages”), iMessages, applications, Application Programming Interfaces (“APIs”), and/or functionality added to the native content sharing options (collectively “upload services and/or devices”). Apple’s upload services and/or devices are marketed, offered for sale, and/or sold throughout the United States, including within this District. Apple can be served with process by serving CT Corporation System, 1999 Bryan Street, Suite 900, Dallas, Texas 75201.

12. Defendant Twitter is a Delaware corporation, with its principal place of business at 1355 Market Street, Suite 900, San Francisco, California 94103. Twitter designs,

manufactures, uses, imports into the United States, sells, and/or offers for sale in the United States services, servers, applications, Application Programming Interfaces (“APIs”), and/or functionality added to the native content sharing options within cell phones, tablets, and other computing devices that transmit pre-processing parameters; receive pre-processed digital content; obtain digital content, pre-process it, and transmit it to another device, server, or location; and/or distribute pre-processed digital content to a another device, server, or location (collectively “upload services”). Twitter makes, uses, sells, imports, and/or offers applications, APIs, and/or functionality added to the native content sharing options for devices from co-defendants HTC Corp., HTC America, LGE Inc., LGE USA, LGE MobileComm, Motorola, and Apple. Twitter’s upload services are marketed, offered for sale, and/or sold throughout the United States, including within this District. Twitter can be served with process by way of the Texas Secretary of State, in accordance with Fed. R. Civ. P. 4(h).

### **JURISDICTION AND VENUE**

13. This is a civil action for patent infringement arising under the patent laws of the United States, 35 U.S.C. § 101 *et seq.*, including 35 U.S.C. §§ 271 and 281-285. Jurisdiction is conferred on this Court pursuant to 28 U.S.C. §§ 1331 and 1338.

14. Venue is proper in the Wichita Falls Division of the Northern District of Texas pursuant to 28 U.S.C. §§ 1391 and 1400(b).

15. This Court has personal jurisdiction over Defendants. Defendants have conducted and do conduct business within the State of Texas. Defendants, directly or through subsidiaries or intermediaries (including distributors, retailers, and others), ship, distribute, offer for sale, sell, design, manufacture, and advertise products and/or services that infringe the Patents-in-Suit in the United States, the State of Texas, and the Northern District of Texas. Defendants, directly and through subsidiaries and intermediaries, have purposefully and voluntarily placed one or

more of their infringing upload services and/or devices, as described below, into the stream of commerce with the expectation that they will be purchased and used by consumers in the Northern District of Texas. These infringing upload services and/or devices have been and continue to be purchased and used by consumers in the Northern District of Texas. Defendants have committed acts of patent infringement with the State of Texas and, more particularly, within the Northern District of Texas.

### **THE ASSERTED PATENTS**

16. On May 17, 2005, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 6,895,557, entitled “Web-Based Media Submission Tool,” to Lisa T. Wood, Scott M. Lewis, and Robin T. Fried. Summit 6 is the owner by assignment of the ’557 Patent and possesses all rights of recovery under the ’557 Patent. A true and correct copy of the ’557 Patent is attached hereto as Exhibit A and incorporated herein by reference.

17. On July 27, 2010, the U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 7,765,482, entitled “Web-Based Media Submission Tool,” to Lisa T. Wood, Scott M. Lewis, and Robin T. Fried. Summit 6 is the owner by assignment of the ’482 Patent and possesses all rights of recovery under the ’482 Patent. A true and correct copy of the ’482 Patent is attached hereto as Exhibit B and incorporated herein by reference.

18. On December 17, 2013, The U.S. Patent and Trademark Office duly and legally issued U.S. Patent No. 8,612,515, entitled “System, Method, and Apparatus for Media Submission,” to Lisa T. Wood, Scott M. Lewis, and Robin T. Fried. Summit 6 is the owner by assignment of the ’515 Patent and possesses all rights of recovery under the ’515 Patent. A true and correct copy of the ’515 Patent is attached hereto as Exhibit C and incorporated herein by reference.

19. The Patents-in-Suit are valid and enforceable.

### **GENERAL ALLEGATIONS**

20. Defendants have and continue to make, use, import into the United States, market, offer for sale, and/or sell in the United States upload services and/or devices that infringe the Patents-in-Suit, and/or induce or contribute to the infringement of the Patents-in-Suit by others, including other co-defendants and end users.

21. Summit 6 has been damaged as a result of Defendants' infringing conduct. Defendants are therefore liable to Summit 6 in an amount that adequately compensates Summit 6 for Defendants' infringement, which, by law, cannot be less than a reasonable royalty, together with interest and costs as fixed by this Court under 35 U.S.C. § 284.

### **COUNT I**

#### **Infringement of the '482 Patent**

22. Summit 6 repeats and realleges the allegations in paragraphs 1-21 as though fully set forth herein.

#### **HTC Corp. Infringes the '482 Patent**

23. HTC Corp. has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by at least claims 1, 4, 6, 8-10, 12-14, 16-19, 21-23, 25, 35, 38, 40-42, 44-46, and 49-50 of the '482 Patent (hereinafter the "'482 HTC Asserted Claims'"), including, but not limited to HTC Corp.'s upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Desire, One, One max, One mini, Droid DNA, Evo 4G LTE, Droid Incredible 4G LTE, One SV, One X+, Desire C, One X, One VX, One S, One V, EVO Design 4G, Vivid, Rezound, Rhyme, Sensation, Hero S, and any other HTC Corp. mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or



location; the HTC Messaging Application, including its MMS functionality; HTC Corp.'s Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

24. HTC Corp. makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 HTC Asserted Claims. Upon information and belief, HTC Corp. also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '482 HTC Asserted Claims. HTC Corp. also directly infringes the '482 HTC Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

25. HTC Corp. has and continues to induce and contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 HTC Asserted Claims, including, but not limited to HTC Corp.'s upload services and/or devices listed above. HTC Corp. provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 HTC Asserted Claims.

26. HTC Corp. indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC Corp. received notice of the '482 Patent at least as of the date this lawsuit was filed. HTC Corp. provides the accused upload

services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, HTC Corp. specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

27. HTC Corp. specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 HTC Asserted Claims in the United States. For example, HTC Corp. provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of HTC Corp.'s products in an infringing way. Such instructions include at least "HTC Desire 601 User Guide,"<sup>1</sup> "Your HTC One User Guide,"<sup>2</sup> "HTC One Max User Guide,"<sup>3</sup> and other similar user guides and support documentation available on HTC Corp.'s support website.<sup>4</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '482 HTC Asserted Claims. HTC Corp. knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '482 HTC Asserted Claims. HTC Corp. thus knows that its actions actively induce infringement. HTC Corp. performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

28. HTC Corp. indirectly infringes the '482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. §

<sup>1</sup> Available on HTC Corp.'s website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_Desire\\_601/HTC\\_Desire\\_601\\_Virgin\\_Mobile\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_Desire_601/HTC_Desire_601_Virgin_Mobile_User_Guide.pdf).

<sup>2</sup> Available on HTC Corp.'s website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_One/HTC\\_One\\_ATT\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One/HTC_One_ATT_User_Guide.pdf).

<sup>3</sup> Available on HTC Corp.'s website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_One\\_max/HTC\\_One\\_max\\_Sprint\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One_max/HTC_One_max_Sprint_User_Guide.pdf).

<sup>4</sup> See <http://www.htc.com/us/support/>.

271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC Corp. received notice of the '482 Patent at least as of the date this lawsuit was filed.

29. HTC Corp.'s upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and transmit digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

30. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on HTC Corp.'s upload services and/or devices.

31. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

32. HTC Corp.'s accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices.

The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, HTC Corp.'s sales of its infringing products have no substantial non-infringing uses.

33. Accordingly, a reasonable inference is that HTC Corp. offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

34. HTC Corp.'s acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, HTC Corp. will continue to infringe the '482 Patent.

#### **HTC America Infringes the '482 Patent**

35. HTC America has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by the '482 HTC Asserted Claims, including, but not limited to HTC America's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Desire, One, One max, One mini, Droid DNA, Evo 4G LTE, Droid Incredible 4G LTE, One SV, One X+, Desire C, One X, One VX, One S, One V, EVO Design 4G, Vivid, Rezound, Rhyme, Sensation, Hero S, and any other HTC America mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the HTC Messaging

Application, including its MMS functionality; HTC America's Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

36. HTC America makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 HTC Asserted Claims. Upon information and belief, HTC America also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '482 HTC Asserted Claims. HTC America also directly infringes the '482 HTC Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

37. HTC America has and continues to induce and to contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 HTC Asserted Claims, including, but not limited to HTC America's upload services and/or devices listed above. HTC America provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 HTC Asserted Claims.

38. HTC America indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC America received notice of the '482 Patent at least as of the date this lawsuit was filed. HTC America provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers,

and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, HTC America specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

39. HTC America specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 HTC Asserted Claims in the United States. For example, HTC America provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of HTC America's products in an infringing way. Such instructions include at least "HTC Desire 601 User Guide,"<sup>5</sup> "Your HTC One User Guide,"<sup>6</sup> "HTC One Max User Guide,"<sup>7</sup> and other similar user guides and support documentation available on HTC America's support website.<sup>8</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '482 HTC Asserted Claims. HTC America knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '482 HTC Asserted Claims. HTC America thus knows that its actions actively induce infringement. HTC America performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

40. HTC America indirectly infringes the '482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of

<sup>5</sup> Available on HTC America's website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_Desire\\_601/HTC\\_Desire\\_601\\_Virgin\\_Mobile\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_Desire_601/HTC_Desire_601_Virgin_Mobile_User_Guide.pdf).

<sup>6</sup> Available on HTC America's website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_One/HTC\\_One\\_ATT\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One/HTC_One_ATT_User_Guide.pdf).

<sup>7</sup> Available on HTC America's website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_One\\_max/HTC\\_One\\_max\\_Sprint\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One_max/HTC_One_max_Sprint_User_Guide.pdf).

<sup>8</sup> See <http://www.htc.com/us/support/>.

activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC America received notice of the '482 Patent at least as of the date this lawsuit was filed.

41. HTC America's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

42. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on HTC America's upload services and/or devices.

43. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

44. HTC America's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices.

The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, HTC America's sales of its infringing products have no substantial non-infringing uses.

45. Accordingly, a reasonable inference is that HTC America offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

46. HTC America's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, HTC America will continue to infringe the '482 Patent.

#### **LGE Inc. Infringes the '482 Patent**

47. LGE Inc. has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1, 4, 6, 8-10, 12-14, 16-19, 21-23, 25, 35, 38, 40-42, 44-46, and 49-50 of the '482 Patent (hereinafter the "'482 LGE Asserted Claims'"), including, but not limited to LGE Inc.'s upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: D820 Red, Optimus F3Q D520, G Flex AT&T D950, G Flex T-Mobile D959, G Flex Sprint LS995, G2 Verizon VS980 White, D820 T-Mobile Black, D820 Sprint Black, D820 Sprint White, G2 Verizon VS980, G2 AT&T D800, G2 T-Mobile D801, G2 Sprint LS980, G2 Sprint LS980 White, G2



AT&T D800 White, D2 T-Mobile D801 White, Wine III UN530, Optimus F6 MS500, Optimus F6 D500, Enact VS890, Exalt VN360, Optimus F3 MS659, Optimus F3 P659, Optimus F3 VM720, Rumor Reflex S LN272S Blue, Rumor Reflex S LN272S Red, Fluid AN160, Optimus F7 LG870, Optimus F3 LS720 Titanium Silver, Optimus F7 US780, Optimus F3 LS720 Purple, LGE960W, Optimus F5 AS870, Optimus G Pro E980, Optimus G Pro E980 White, Envoy II UN160, Optimus Exceed VS840PP, Revere 2 VN150S, Cosmos 3 VN251S, Optimus Zone VS410PP, Lucid2 VS870, Spirit 4G MS870, LGE960, Optimus REGARD LW770, Mach LS860, Optimus G LS970, Optimus L9 P769, Freedom UN272, Optimus G E970, Venice LG730, Escape P870, Spectrum 2 VS930, Splendor US730, Intuition VS950, Motion 4G MS770, Optimus Zip LGL75C, Optimus Plus AS695, Optimus Elite VM696, Elite LS696, Viper LS840, Xpression C395, A340, Rumor Reflex LG272, Rumor Reflex LN272, Optimus M+ MS695, Lucid VS840, Spectrum VS920, Connect 4G MS840, Extravert VN271, Optimus Net L45C, and any other LGE Inc. mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the LG Messaging Application, including its MMS functionality; LGE Inc.'s Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

48. LGE Inc. makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 LGE Asserted Claims. Upon information and belief, LGE Inc. also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '482 LGE Asserted Claims. LGE Inc. also directly infringes the '482 LGE Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

49. LGE Inc. has and continues to induce and to contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 LGE Asserted Claims, including, but not limited to LGE Inc.'s upload services and/or devices listed above. LGE Inc. provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 LGE Asserted Claims.

50. LGE Inc. indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE Inc. received notice of the '482 Patent at least as of the date this lawsuit was filed. LGE Inc. provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, LGE Inc. specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

51. LGE Inc. specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 LGE Asserted Claims in the United States. For example, LGE Inc. provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of LGE Inc.'s products in an infringing way. Such instructions include at least "LG G2 User Guide,"<sup>9</sup> "User Guide, LG Optimus F3,"<sup>10</sup>

<sup>9</sup> Available on LGE Inc.'s website at <http://www.lg.com/us/support/software-manuals#>.

“Owner’s Manual, LG Envoy II,”<sup>11</sup> and other similar user guides and support documentation available on LGE Inc.’s support website.<sup>12</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the ’482 LGE Asserted Claims. LGE Inc. knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the ’482 LGE Asserted Claims. LGE Inc. thus knows that its actions actively induce infringement. LGE Inc. performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the ’482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

52. LGE Inc. indirectly infringes the ’482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE Inc. received notice of the ’482 Patent at least as of the date this lawsuit was filed.

53. LGE Inc.’s upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an

<sup>10</sup> Available on LGE Inc.’s website at <http://www.lg.com/us/support/software-manuals#>.

<sup>11</sup> Available on LGE Inc.’s website at <http://www.lg.com/us/support/software-manuals#>.

<sup>12</sup> See <http://www.lg.com/us/support>.

acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

54. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on LGE Inc.'s upload services and/or devices.

55. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

56. LGE Inc.'s accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, LGE Inc.'s sales of its infringing products have no substantial non-infringing uses.

57. Accordingly, a reasonable inference is that LGE Inc. offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

58. LGE Inc.'s acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, LGE Inc. will continue to infringe the '482 Patent.

### **LGE USA Infringes the '482 Patent**

59. LGE USA has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by the '482 LGE Asserted Claims, including, but not limited to LGE USA's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: D820 Red, Optimus F3Q D520, G Flex AT&T D950, G Flex T-Mobile D959, G Flex Sprint LS995, G2 Verizon VS980 White, D820 T-Mobile Black, D820 Sprint Black, D820 Sprint White, G2 Verizon VS980, G2 AT&T D800, G2 T-Mobile D801, G2 Sprint LS980, G2 Sprint LS980 White, G2 AT&T D800 White, D2 T-Mobile D801 White, Wine III UN530, Optimus F6 MS500, Optimus F6 D500, Enact VS890, Exalt VN360, Optimus F3 MS659, Optimus F3 P659, Optimus F3 VM720, Rumor Reflex S LN272S Blue, Rumor Reflex S LN272S Red, Fluid AN160, Optimus F7 LG870, Optimus F3 LS720 Titanium Silver, Optimus F7 US780, Optimus F3 LS720 Purple, LGE960W, Optimus F5 AS870, Optimus G Pro E980, Optimus G Pro E980 White, Envoy II UN160, Optimus Exceed VS840PP, Revere 2 VN150S, Cosmos 3 VN251S, Optimus Zone VS410PP, Lucid2 VS870, Spirit 4G MS870, LGE960, Optimus REGARD LW770, Mach LS860, Optimus G LS970, Optimus L9 P769, Freedom UN272, Optimus G E970, Venice LG730, Escape P870, Spectrum 2 VS930, Splendor US730, Intuition VS950, Motion 4G MS770, Optimus Zip LGL75C, Optimus Plus AS695, Optimus Elite VM696, Elite LS696, Viper LS840, Xpression C395, A340, Rumor Reflex LG272, Rumor Reflex LN272, Optimus M+

MS695, Lucid VS840, Spectrum VS920, Connect 4G MS840, Extravert VN271, Optimus Net L45C, and any other LGE USA mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the LG Messaging Application, including its MMS functionality; LG USA's Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

60. LGE USA makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 LGE Asserted Claims. Upon information and belief, LGE USA also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '482 LGE Asserted Claims. LGE USA also directly infringes the '482 LGE Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

61. LGE USA has and continues to induce and to contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 LGE Asserted Claims, including, but not limited to LGE USA's upload services and/or devices listed above. LGE USA provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 LGE Asserted Claims.

62. LGE USA indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use

customers of the accused upload services and/or devices. LGE USA received notice of the '482 Patent at least as of the date this lawsuit was filed. LGE USA provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, LGE USA specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

63. LGE USA specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 LGE Asserted Claims in the United States. For example, LGE USA provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of LGE USA's products in an infringing way. Such instructions include at least "LG G2 User Guide,"<sup>13</sup> "User Guide, LG Optimus F3,"<sup>14</sup> "Owner's Manual, LG Envoy II,"<sup>15</sup> and other similar user guides and support documentation available on LGE USA's support website.<sup>16</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '482 LGE Asserted Claims. LGE USA knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '482 LGE Asserted Claims. LGE USA thus knows that its actions actively induce infringement. LGE USA performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

<sup>13</sup> Available on LGE USA's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>14</sup> Available on LGE USA's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>15</sup> Available on LGE USA's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>16</sup> See <http://www.lg.com/us/support>.

64. LGE USA indirectly infringes the '482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE USA received notice of the '482 Patent at least as of the date this lawsuit was filed.

65. LGE USA's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

66. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on LGE USA's upload services and/or devices.

67. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

68. LGE USA's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a



material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, LGE USA's sales of its infringing products have no substantial non-infringing uses.

69. Accordingly, a reasonable inference is that LGE USA offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

70. LGE USA's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, LGE USA will continue to infringe the '482 Patent.

#### **LGE MobileComm Infringes the '482 Patent**

71. LGE MobileComm has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by the '482 LGE Asserted Claims, including, but not limited to LGE MobileComm's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: D820 Red, Optimus F3Q D520, G Flex AT&T D950, G Flex T-Mobile D959, G Flex Sprint LS995, G2 Verizon VS980 White, D820 T-Mobile Black, D820 Sprint Black, D820

Sprint White, G2 Verizon VS980, G2 AT&T D800, G2 T-Mobile D801, G2 Sprint LS980, G2 Sprint LS980 White, G2 AT&T D800 White, D2 T-Mobile D801 White, Wine III UN530, Optimus F6 MS500, Optimus F6 D500, Enact VS890, Exalt VN360, Optimus F3 MS659, Optimus F3 P659, Optimus F3 VM720, Rumor Reflex S LN272S Blue, Rumor Reflex S LN272S Red, Fluid AN160, Optimus F7 LG870, Optimus F3 LS720 Titanium Silver, Optimus F7 US780, Optimus F3 LS720 Purple, LGE960W, Optimus F5 AS870, Optimus G Pro E980, Optimus G Pro E980 White, Envoy II UN160, Optimus Exceed VS840PP, Revere 2 VN150S, Cosmos 3 VN251S, Optimus Zone VS410PP, Lucid2 VS870, Spirit 4G MS870, LGE960, Optimus REGARD LW770, Mach LS860, Optimus G LS970, Optimus L9 P769, Freedom UN272, Optimus G E970, Venice LG730, Escape P870, Spectrum 2 VS930, Splendor US730, Intuition VS950, Motion 4G MS770, Optimus Zip LGL75C, Optimus Plus AS695, Optimus Elite VM696, Elite LS696, Viper LS840, Xpression C395, A340, Rumor Reflex LG272, Rumor Reflex LN272, Optimus M+ MS695, Lucid VS840, Spectrum VS920, Connect 4G MS840, Extravert VN271, Optimus Net L45C, and any other LGE MobileComm mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the LG Messaging Application, including its MMS functionality; LGE MobileComm's Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

72. LGE MobileComm makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 LGE Asserted Claims. Upon information and belief, LGE MobileComm also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '482 LGE Asserted Claims. LGE MobileComm also directly infringes the '482 LGE

Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

73. LGE MobileComm has and continues to induce and to contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 LGE Asserted Claims, including, but not limited to LGE MobileComm's upload services and/or devices listed above. LGE MobileComm provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 LGE Asserted Claims.

74. LGE MobileComm indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE MobileComm received notice of the '482 Patent at least as of the date this lawsuit was filed. LGE MobileComm provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, LGE MobileComm specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

75. LGE MobileComm specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 LGE Asserted Claims in the United States. For example, LGE MobileComm provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of LGE

MobileComm's products in an infringing way. Such instructions include at least "LG G2 User Guide,"<sup>17</sup> "User Guide, LG Optimus F3,"<sup>18</sup> "Owner's Manual, LG Envoy II,"<sup>19</sup> and other similar user guides and support documentation available on LGE MobileComm's support website.<sup>20</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '482 LGE Asserted Claims. LGE MobileComm knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '482 LGE Asserted Claims. LGE MobileComm thus knows that its actions actively induce infringement. LGE MobileComm performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

76. LGE MobileComm indirectly infringes the '482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE MobileComm received notice of the '482 Patent at least as of the date this lawsuit was filed.

77. LGE MobileComm's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner.

<sup>17</sup> Available on LGE MobileComm's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>18</sup> Available on LGE MobileComm's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>19</sup> Available on LGE MobileComm's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>20</sup> See <http://www.lg.com/us/support>.

Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

78. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on LGE MobileComm's upload services and/or devices.

79. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

80. LGE MobileComm's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, LGE MobileComm's sales of its infringing products have no substantial non-infringing uses.

81. Accordingly, a reasonable inference is that LGE MobileComm offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for

use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

82. LGE MobileComm's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, LGE MobileComm will continue to infringe the '482 Patent.

### **Motorola Infringes the '482 Patent**

83. Motorola has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1, 4, 6, 8-10, 12-14, 16-19, 21-23, 25, 35, 38, 40-42, 44-46, and 49-50 of the '482 Patent (hereinafter the "'482 Motorola Asserted Claims"), including, but not limited to Motorola's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Moto X, Moto G, Droid Maxx, Droid Ultra, Droid Mini, Moto X Developer Edition (GSM Networks), Moto X Developer Edition Verizon, Droid Maxx Developer Edition, Droid Razr M, Droid Razr Maxx HD, Motorola Photon Q 4G LTE, and any other Motorola mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the Motorola MMS Application, including its MMS functionality; Motorola's Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

84. Motorola makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 Motorola Asserted Claims. Upon information and belief, Motorola also uses these upload services and/or devices

via its internal use and testing in the United States, directly infringing each of the '482 Motorola Asserted Claims. Motorola also directly infringes the '482 Motorola Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

85. Motorola has and continues to induce and to contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 Motorola Asserted Claims, including, but not limited to Motorola's upload services and/or devices listed above. Motorola provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 Motorola Asserted Claims.

86. Motorola indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. Motorola received notice of the '482 Patent at least as of the date this lawsuit was filed. Motorola provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, Motorola specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

87. Motorola specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 Motorola Asserted Claims in the

United States. For example, Motorola provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of Motorola's products in an infringing way. Such instructions include at least "Moto G User Guide,"<sup>21</sup> "Moto X User Guide,"<sup>22</sup> "User's Guide, Droid Ultra,"<sup>23</sup> and other similar user guides and support documentation available on Motorola's support website.<sup>24</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '482 Motorola Asserted Claims. Motorola knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '482 Motorola Asserted Claims. Motorola thus knows that its actions actively induce infringement. Motorola performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

88. Motorola indirectly infringes the '482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. Motorola received notice of the '482 Patent at least as of the date this lawsuit was filed.

89. Motorola's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or

<sup>21</sup> Available on Motorola's website at <https://motorola-global-portal.custhelp.com/ci/fattach/get/745538/1385483328/redirect/1/filename/68017554027a.pdf>.

<sup>22</sup> Available on Motorola's website at [https://motorola-global-portal.custhelp.com/ci/fattach/get/753825/1386258990/redirect/1/filename/Xfon\\_UG\\_KK\\_68017630001b.pdf](https://motorola-global-portal.custhelp.com/ci/fattach/get/753825/1386258990/redirect/1/filename/Xfon_UG_KK_68017630001b.pdf).

<sup>23</sup> Available on Motorola's website at <https://motorola-global-portal.custhelp.com/ci/fattach/get/675621/1377023134/redirect/1/filename/68017476001A.pdf>.

<sup>24</sup> See <https://motorola-global-portal.custhelp.com/app/home/>.



dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

90. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on Motorola's upload services and/or devices.

91. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

92. Motorola's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, Motorola's sales of its infringing products have no substantial non-infringing uses.

93. Accordingly, a reasonable inference is that Motorola offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a

material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

94. Motorola's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Motorola will continue to infringe the '482 Patent.

#### **Apple Infringes the '482 Patent**

95. Apple has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1, 4, 6, 8-10, 12-14, 16-23, 25, 35-38, 40-42, 44-46, and 49-51 of the '482 Patent (hereinafter the "'482 Apple Asserted Claims'"), including, but not limited to Apple's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: iPhone 3G, iPhone 3GS, iPhone 4, iPhone 4S, iPhone 5, iPhone 5S, iPhone 5C, iPad (first generation), iPad 2, iPad (third generation), iPad (fourth generation), iPad Air, iPad Mini (first generation), iPad Mini (second generation), iPod Touch (third generation), iPod Touch (fourth generation), iPod Touch (fifth generation), and any other Apple mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; Apple's Messages Application, including both its MMS functionality and its iMessage functionality and infrastructure; Apple's Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

96. Apple makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '482 Apple Asserted Claims. Additionally, upon information and belief Apple creates the source code related to at least some of these upload services and/or devices. These acts are a direct infringement of the '482 Apple Asserted Claims. Upon information and belief, Apple also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '482 Apple Asserted Claims. Apple also directly infringes the '482 Apple Asserted Claims when its mobile devices and/or servers execute the code responsible for the operation of the accused upload services and/or devices.

97. Apple has and continues to induce and to contribute to infringement of the '482 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 Apple Asserted Claims, including, but not limited to Apple's upload services and/or devices listed above. Apple provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '482 Apple Asserted Claims.

98. Apple indirectly infringes the '482 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. Apple received notice of the '482 Patent at least as of the date this lawsuit was filed. Apple provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services

and/or devices to infringe the '482 Patent. Through its manufacture and sale of the accused upload services and/or devices, Apple specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '482 Patent.

99. Apple specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '482 Apple Asserted Claims in the United States. For example, Apple provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of Apple's products in an infringing way. Such instructions include at least "iPhone User Guide for iPhone OS 3.1 Software,"<sup>25</sup> "iPhone User Guide For iOS 7 (October 2013),"<sup>26</sup> "iPad User Guide For iOS 7 (October 2013),"<sup>27</sup> "iPod touch User Guide For iOS 7 (October 2013),"<sup>28</sup> "MFMessageComposeViewController Class Reference,"<sup>29</sup> and other similar user guides and support documentation available on Apple's support<sup>30</sup> and developer<sup>31</sup> websites. When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '482 Apple Asserted Claims. Apple knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '482 Apple Asserted Claims. Apple thus knows that its actions actively induce infringement. Apple performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of

<sup>25</sup> Available on Apple's website at [http://manuals.info.apple.com/MANUALS/0/MA616/en\\_US/iPhone\\_iOS3.1\\_User\\_Guide.pdf](http://manuals.info.apple.com/MANUALS/0/MA616/en_US/iPhone_iOS3.1_User_Guide.pdf).

<sup>26</sup> Available on Apple's website at [http://manuals.info.apple.com/MANUALS/1000/MA1565/en\\_US/iphone\\_user\\_guide.pdf](http://manuals.info.apple.com/MANUALS/1000/MA1565/en_US/iphone_user_guide.pdf).

<sup>27</sup> Available on Apple's website at [http://manuals.info.apple.com/MANUALS/1000/MA1595/en\\_US/ipad\\_user\\_guide.pdf](http://manuals.info.apple.com/MANUALS/1000/MA1595/en_US/ipad_user_guide.pdf).

<sup>28</sup> Available on Apple's website at [http://manuals.info.apple.com/MANUALS/1000/MA1596/en\\_US/ipod\\_touch\\_user\\_guide.pdf](http://manuals.info.apple.com/MANUALS/1000/MA1596/en_US/ipod_touch_user_guide.pdf).

<sup>29</sup> Available on Apple's website at [https://developer.apple.com/library/ios/documentation/MessageUI/Reference/MFMessageComposeViewController\\_class/Reference/Reference.html](https://developer.apple.com/library/ios/documentation/MessageUI/Reference/MFMessageComposeViewController_class/Reference/Reference.html).

<sup>30</sup> See <http://www.apple.com/support/>.

<sup>31</sup> See <https://developer.apple.com/>.

the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

100. Apple indirectly infringes the '482 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. Apple received notice of the '482 Patent at least as of the date this lawsuit was filed.

101. Apple's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

102. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on Apple's upload services and/or devices.

103. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

104. Apple's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '482 Patent, Apple's sales of its infringing products have no substantial non-infringing uses.

105. Accordingly, a reasonable inference is that Apple offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

106. Apple's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Apple will continue to infringe the '482 Patent.

#### **Twitter Infringes the '482 Patent**

107. Twitter has and continues to directly infringe the '482 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1, 4, 6, 8-10, 12-14, 16-23, 25, 35-38, 40-42, 44-46, and 49-51 of the '482 Patent (hereinafter the "'482 Twitter Asserted Claims'"), including, but not limited to Twitter's upload services. The accused upload services that infringe one or more of the above-listed claims include, but are not limited to, at least the following: the Twitter Application for iPhone, the

Twitter Application for iPad, the Twitter Application for Android, the Twitter Application for Android Tablet, and any other Twitter Application capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the Twitter content upload functionality integrated into the native sharing options for iOS and Android devices; Twitter's APIs related to obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; Twitter's mobile website; and Twitter's website-related infrastructure. Further discovery may reveal additional infringing products, models, and/or functionality.

108. Twitter makes, uses, sells, offers for sale, or imports into the United States these upload services and thus directly infringes at least the '482 Twitter Asserted Claims. Additionally, upon information and belief, Twitter creates the source code related to each of these upload services. These acts are a direct infringement of the '482 Twitter Asserted Claims. Upon information and belief, Twitter also uses these upload services via its internal use and testing in the United States, directly infringing each of the '482 Twitter Asserted Claims. Twitter also directly infringes the '482 Twitter Asserted Claims when it executes its code responsible for the operation of the accused upload services.

109. Twitter has and continues to induce and to contribute to infringement of the '482 Patent by intending that others, including co-defendants HTC Corp., HTC America, LGE Inc., LGE USA, LGE MobileComm, Motorola, and Apple, make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '482 Twitter Asserted Claims, including, but not limited to Twitter's upload services listed above. Twitter provides these upload services to others, such as co-defendants, manufacturers, customers, resellers, application developers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services that infringe the '482 Twitter Asserted Claims.

110. Twitter indirectly infringes the '482 Patent by inducing infringement by others, such as co-defendants, manufacturers, customers, resellers, application developers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers of the accused upload services. Twitter received notice of the '482 Patent at least as of the date this lawsuit was filed. Twitter provides the accused upload services to others, such as co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services to infringe the '482 Patent. Through its manufacture and sale of the accused upload services, Twitter specifically intended co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers to infringe the '482 Patent.

111. Twitter specifically intends for others, such as co-defendants, to directly infringe the '482 Twitter Asserted Claims in the United States. For example, Twitter provides its accused upload services to HTC Corp. for integration into HTC Corp.'s accused upload services and/or devices. For example, Twitter provides its accused upload services to HTC America for integration into HTC America's accused upload services and/or devices. For example, Twitter provides its accused upload services to LGE Inc. for integration into LGE Inc.'s accused upload services and/or devices. For example, Twitter provides its accused upload services to LGE USA for integration into LGE USA's accused upload services and/or devices. For example, Twitter provides its accused upload services to LGE MobileComm for integration into LGE MobileComm's accused upload services and/or devices. For example, Twitter provides its accused upload services to Motorola for integration into Motorola's accused upload services and/or devices. For example, Twitter provides its accused upload services to Apple for



integration into Apple's accused upload services and/or devices. When co-defendants include the integrated Twitter content upload functionality in their accused upload services and/or devices, they directly infringe the '482 Twitter Asserted Claims. Twitter knows that providing the integrated Twitter content upload functionality to co-defendants induces co-defendants to directly infringe the '482 Twitter Asserted Claims. Twitter thus knows that its actions actively induce infringement. Twitter performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

112. Twitter also specifically intends for others, such as manufacturers, customers, resellers, application developers, and end-use customers, to directly infringe the '482 Twitter Asserted Claims in the United States. For example, Twitter provides instructions to manufacturers, customers, resellers, application developers, and end-use customers regarding the use and operation of Twitter's accused services in an infringing way. Such instructions include at least "Getting started with Twitter for iPhone,"<sup>32</sup> "Getting started with Twitter for Android,"<sup>33</sup> "Using mobile.twitter.com on a smartphone or tablet,"<sup>34</sup> "POST statuses/update\_with\_media,"<sup>35</sup> and other similar user guides and support documentation available on Twitter's support<sup>36</sup> and developer<sup>37</sup> websites. When manufacturers, customers, resellers, application developers, and end-use customers follow such instructions, they directly infringe the '482 Twitter Asserted Claims. Twitter knows that by providing such instructions, manufacturers, customers, resellers, application developers, and end-use customers follow those instructions, and directly infringe the

<sup>32</sup> Available on Twitter's website at <https://support.twitter.com/articles/20169500>.

<sup>33</sup> Available on Twitter's website at <https://support.twitter.com/groups/54-mobile-apps/topics/223-android/articles/168930-getting-started-with-twitter-for-android>.

<sup>34</sup> Available on Twitter's website at <https://support.twitter.com/groups/54-mobile-apps/topics/224-mobile-web/articles/20113771-using-mobile-twitter-com-on-a-smartphone-or-tablet>.

<sup>35</sup> Available on Twitter's website at [https://dev.twitter.com/docs/api/1.1/post/statuses/update\\_with\\_media](https://dev.twitter.com/docs/api/1.1/post/statuses/update_with_media).

<sup>36</sup> See <https://support.twitter.com/>.

<sup>37</sup> See <https://dev.twitter.com/>.

'482 Twitter Asserted Claims. Twitter thus knows that its actions actively induce infringement. Twitter performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '482 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

113. Twitter indirectly infringes the '482 Patent, by contributing to infringement by others, such as co-defendants, customers, resellers, application developers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by co-defendants, customers, resellers, application developers, and/or end-use customers of the accused upload services. Twitter received notice of the '482 Patent at least as of the date this lawsuit was filed.

114. Twitter's upload services allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

115. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on Twitter's upload services.

116. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused

upload services. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

117. Twitter's accused upload services, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location are each a material part of the invention of the '482 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services. The accused upload services are especially made or adapted to infringe the '482 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services infringe the '482 Patent, Twitter's sales of its infringing products have no substantial non-infringing uses.

118. Accordingly, a reasonable inference is that Twitter offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '482 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

119. Twitter's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Twitter will continue to infringe the '482 Patent.

## **COUNT II**

### **Infringement of the '515 Patent**

120. Summit 6 repeats and realleges the allegations in paragraphs 1-119 as though fully set forth herein.

### **HTC Corp. Infringes the '515 Patent**

121. HTC Corp. has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1-3, 6, 7, 10, 11, 14-20, 23-30, 33-39, 44, and 48 of the '515 Patent (hereinafter the "'515 HTC Asserted Claims'"), including, but not limited to HTC Corp.'s upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Desire, One, One max, One mini, Droid DNA, Evo 4G LTE, Droid Incredible 4G LTE, One SV, One X+, Desire C, One X, One VX, One S, One V, EVO Design 4G, Vivid, Rezound, Rhyme, Sensation, Hero S, and any other HTC Corp. mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

122. HTC Corp. makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 HTC Asserted Claims. Upon information and belief, HTC Corp. also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 HTC Asserted Claims. HTC Corp. also directly infringes the '515 HTC Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

123. HTC Corp. has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 HTC Asserted Claims, including, but not limited to HTC Corp.'s upload services and/or devices listed above. HTC Corp. provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-

use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 HTC Asserted Claims.

124. HTC Corp. indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC Corp. received notice of the '515 Patent at least as of the date this lawsuit was filed. HTC Corp. provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '515 Patent. Through its manufacture and sale of the accused upload services and/or devices, HTC Corp. specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

125. HTC Corp. specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 HTC Asserted Claims in the United States. For example, HTC Corp. provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of HTC Corp.'s products in an infringing way. Such instructions include at least "HTC Desire 601 User Guide,"<sup>38</sup> "Your HTC One User Guide,"<sup>39</sup> "HTC One Max User Guide,"<sup>40</sup> and other similar user guides and support documentation available on HTC Corp.'s support website.<sup>41</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '515 HTC

<sup>38</sup> Available on HTC Corp.'s website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_Desire\\_601/HTC\\_Desire\\_601\\_Virgin\\_Mobile\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_Desire_601/HTC_Desire_601_Virgin_Mobile_User_Guide.pdf).

<sup>39</sup> Available on HTC Corp.'s website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_One/HTC\\_One\\_ATT\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One/HTC_One_ATT_User_Guide.pdf).

<sup>40</sup> Available on HTC Corp.'s website at [http://dl4.htc.com/web\\_materials/Manual/HTC\\_One\\_max/HTC\\_One\\_max\\_Sprint\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One_max/HTC_One_max_Sprint_User_Guide.pdf).

<sup>41</sup> See <http://www.htc.com/us/support/>.

Asserted Claims. HTC Corp. knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '515 HTC Asserted Claims. HTC Corp. thus knows that its actions actively induce infringement. HTC Corp. performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

126. HTC Corp. indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC Corp. received notice of the '515 Patent at least as of the date this lawsuit was filed.

127. HTC Corp.'s upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital content in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

128. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on HTC Corp.'s upload services and/or devices.

129. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

130. HTC Corp.'s accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '515 Patent, HTC Corp.'s sales of its infringing products have no substantial non-infringing uses.

131. Accordingly, a reasonable inference is that HTC Corp. offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

132. HTC Corp.'s acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, HTC Corp. will continue to infringe the '515 Patent.

**HTC America Infringes the '515 Patent**

133. HTC America has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by the '515 HTC Asserted Claims, including, but not limited to HTC America's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Desire, One, One max, One mini, Droid DNA, Evo 4G LTE, Droid Incredible 4G LTE, One SV, One X+, Desire C, One X, One VX, One S, One V, EVO Design 4G, Vivid, Rezound, Rhyme, Sensation, Hero S, and any other HTC America mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

134. HTC America makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 HTC Asserted Claims. Upon information and belief, HTC America also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 HTC Asserted Claims. HTC America also directly infringes the '515 HTC Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

135. HTC America has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 HTC Asserted Claims, including, but not limited to HTC America's upload services and/or devices listed above. HTC America provides these upload services and/or devices to others, such as manufacturers, customers,



resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 HTC Asserted Claims.

136. HTC America indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC America received notice of the '515 Patent at least as of the date this lawsuit was filed. HTC America provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '515 Patent. Through its manufacture and sale of the accused upload services and/or devices, HTC America specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

137. HTC America specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 HTC Asserted Claims in the United States. For example, HTC America provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of HTC America's products in an infringing way. Such instructions include at least "HTC Desire 601 User Guide,"<sup>42</sup> "Your HTC One User Guide,"<sup>43</sup> "HTC One Max User Guide,"<sup>44</sup> and other similar user guides and support documentation available on HTC America's support website.<sup>45</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the

<sup>42</sup> Available on HTC America's website at

[http://dl4.htc.com/web\\_materials/Manual/HTC\\_Desire\\_601/HTC\\_Desire\\_601\\_Virgin\\_Mobile\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_Desire_601/HTC_Desire_601_Virgin_Mobile_User_Guide.pdf).

<sup>43</sup> Available on HTC America's website at

[http://dl4.htc.com/web\\_materials/Manual/HTC\\_One/HTC\\_One\\_ATT\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One/HTC_One_ATT_User_Guide.pdf).

<sup>44</sup> Available on HTC America's website at

[http://dl4.htc.com/web\\_materials/Manual/HTC\\_One\\_max/HTC\\_One\\_max\\_Sprint\\_User\\_Guide.pdf](http://dl4.htc.com/web_materials/Manual/HTC_One_max/HTC_One_max_Sprint_User_Guide.pdf).

<sup>45</sup> See <http://www.htc.com/us/support/>.

'515 HTC Asserted Claims. HTC America knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '515 HTC Asserted Claims. HTC America thus knows that its actions actively induce infringement. HTC America performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

138. HTC America indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. HTC America received notice of the '515 Patent at least as of the date this lawsuit was filed.

139. HTC America's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

140. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on HTC America's upload services and/or devices.

141. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

142. HTC America's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '515 Patent, HTC America's sales of its infringing products have no substantial non-infringing uses.

143. Accordingly, a reasonable inference is that HTC America offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

144. HTC America's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, HTC America will continue to infringe the '515 Patent.

**LGE Inc. Infringes the '515 Patent**

145. LGE Inc. has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1-3, 6, 7, 10, 11, 14-20, 23-30, 33-39, 44, and 48 of the '515 Patent (hereinafter the "'515 LGE Asserted Claims'"), including, but not limited to LGE Inc.'s upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: D820 Red, Optimus F3Q D520, G Flex AT&T D950, G Flex T-Mobile D959, G Flex Sprint LS995, G2 Verizon VS980 White, D820 T-Mobile Black, D820 Sprint Black, D820 Sprint White, G2 Verizon VS980, G2 AT&T D800, G2 T-Mobile D801, G2 Sprint LS980, G2 Sprint LS980 White, G2 AT&T D800 White, D2 T-Mobile D801 White, Wine III UN530, Optimus F6 MS500, Optimus F6 D500, Enact VS890, Exalt VN360, Optimus F3 MS659, Optimus F3 P659, Optimus F3 VM720, Rumor Reflex S LN272S Blue, Rumor Reflex S LN272S Red, Fluid AN160, Optimus F7 LG870, Optimus F3 LS720 Titanium Silver, Optimus F7 US780, Optimus F3 LS720 Purple, LGE960W, Optimus F5 AS870, Optimus G Pro E980, Optimus G Pro E980 White, Envoy II UN160, Optimus Exceed VS840PP, Revere 2 VN150S, Cosmos 3 VN251S, Optimus Zone VS410PP, Lucid2 VS870, Spirit 4G MS870, LGE960, Optimus REGARD LW770, Mach LS860, Optimus G LS970, Optimus L9 P769, Freedom UN272, Optimus G E970, Venice LG730, Escape P870, Spectrum 2 VS930, Splendor US730, Intuition VS950, Motion 4G MS770, Optimus Zip LGL75C, Optimus Plus AS695, Optimus Elite VM696, Elite LS696, Viper LS840, Xpression C395, A340, Rumor Reflex LG272, Rumor Reflex LN272, Optimus M+ MS695, Lucid VS840, Spectrum VS920, Connect 4G MS840, Extravert VN271, Optimus Net L45C, and any other LGE Inc. mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the integrated Twitter content upload functionality; and the MMS-to-

Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

146. LGE Inc. makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 LGE Asserted Claims. Upon information and belief, LGE Inc. also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 LGE Asserted Claims. LGE Inc. also directly infringes the '515 LGE Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

147. LGE Inc. has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 LGE Asserted Claims, including, but not limited to LGE Inc.'s upload services and/or devices listed above. LGE Inc. provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 LGE Asserted Claims.

148. LGE Inc. indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE Inc. received notice of the '515 Patent at least as of the date this lawsuit was filed. LGE Inc. provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '515 Patent. Through its manufacture and sale of the accused

upload services and/or devices, LGE Inc. specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

149. LGE Inc. specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 LGE Asserted Claims in the United States. For example, LGE Inc. provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of LGE Inc.'s products in an infringing way. Such instructions include at least "LG G2 User Guide,"<sup>46</sup> "User Guide, LG Optimus F3,"<sup>47</sup> "Owner's Manual, LG Envoy II,"<sup>48</sup> and other similar user guides and support documentation available on LGE Inc.'s support website.<sup>49</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '515 LGE Asserted Claims. LGE Inc. knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '515 LGE Asserted Claims. LGE Inc. thus knows that its actions actively induce infringement. LGE Inc. performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

150. LGE Inc. indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE Inc. received notice of the '515 Patent at least as of the date this lawsuit was filed.

<sup>46</sup> Available on LGE Inc.'s website at <http://www.lg.com/us/support/software-manuals#>.

<sup>47</sup> Available on LGE Inc.'s website at <http://www.lg.com/us/support/software-manuals#>.

<sup>48</sup> Available on LGE Inc.'s website at <http://www.lg.com/us/support/software-manuals#>.

<sup>49</sup> See <http://www.lg.com/us/support>.

151. LGE Inc.'s upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

152. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on LGE Inc.'s upload services and/or devices.

153. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

154. LGE Inc.'s accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '515 Patent, LGE Inc.'s sales of its infringing products have no substantial non-infringing uses.

155. Accordingly, a reasonable inference is that LGE Inc. offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

156. LGE Inc.'s acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, LGE Inc. will continue to infringe the '515 Patent.

#### **LGE USA Infringes the '515 Patent**

157. LGE USA has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by the '515 LGE Asserted Claims, including, but not limited to LGE USA's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: D820 Red, Optimus F3Q D520, G Flex AT&T D950, G Flex T-Mobile D959, G Flex Sprint LS995, G2 Verizon VS980 White, D820 T-Mobile Black, D820 Sprint Black, D820 Sprint White, G2 Verizon VS980, G2 AT&T D800, G2 T-Mobile D801, G2 Sprint LS980, G2 Sprint LS980 White, G2 AT&T D800 White, D2 T-Mobile D801 White, Wine III UN530, Optimus F6 MS500, Optimus F6 D500, Enact VS890, Exalt VN360, Optimus F3 MS659, Optimus F3 P659, Optimus F3 VM720, Rumor Reflex S LN272S Blue, Rumor Reflex S LN272S Red, Fluid AN160, Optimus F7 LG870, Optimus F3 LS720 Titanium Silver, Optimus F7 US780, Optimus F3 LS720 Purple, LGE960W, Optimus F5 AS870, Optimus G Pro E980, Optimus G Pro E980 White, Envoy II



UN160, Optimus Exceed VS840PP, Revere 2 VN150S, Cosmos 3 VN251S, Optimus Zone VS410PP, Lucid2 VS870, Spirit 4G MS870, LGE960, Optimus REGARD LW770, Mach LS860, Optimus G LS970, Optimus L9 P769, Freedom UN272, Optimus G E970, Venice LG730, Escape P870, Spectrum 2 VS930, Splendor US730, Intuition VS950, Motion 4G MS770, Optimus Zip LGL75C, Optimus Plus AS695, Optimus Elite VM696, Elite LS696, Viper LS840, Xpression C395, A340, Rumor Reflex LG272, Rumor Reflex LN272, Optimus M+ MS695, Lucid VS840, Spectrum VS920, Connect 4G MS840, Extravert VN271, Optimus Net L45C, and any other LGE USA mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

158. LGE USA makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 LGE Asserted Claims. Upon information and belief, LGE USA also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 LGE Asserted Claims. LGE USA also directly infringes the '515 LGE Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

159. LGE USA has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 LGE Asserted Claims, including, but not limited to LGE USA's upload services and/or devices listed above. LGE USA provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-

use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 LGE Asserted Claims.

160. LGE USA indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE USA received notice of the '515 Patent at least as of the date this lawsuit was filed. LGE USA provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '515 Patent. Through its manufacture and sale of the accused upload services and/or devices, LGE USA specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

161. LGE USA specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 LGE Asserted Claims in the United States. For example, LGE USA provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of LGE USA's products in an infringing way. Such instructions include at least "LG G2 User Guide,"<sup>50</sup> "User Guide, LG Optimus F3,"<sup>51</sup> "Owner's Manual, LG Envoy II,"<sup>52</sup> and other similar user guides and support documentation available on LGE USA's support website.<sup>53</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '515 LGE Asserted Claims. LGE USA knows that by providing such instructions, manufacturers, customers, resellers, and

<sup>50</sup> Available on LGE USA's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>51</sup> Available on LGE USA's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>52</sup> Available on LGE USA's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>53</sup> See <http://www.lg.com/us/support>.

end-use customers follow those instructions, and directly infringe the '515 LGE Asserted Claims. LGE USA thus knows that its actions actively induce infringement. LGE USA performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

162. LGE USA indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE USA received notice of the '515 Patent at least as of the date this lawsuit was filed.

163. LGE USA's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

164. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on LGE USA's upload services and/or devices.

165. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a

staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

166. LGE USA's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '515 Patent, LGE USA's sales of its infringing products have no substantial non-infringing uses.

167. Accordingly, a reasonable inference is that LGE USA offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

168. LGE USA's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, LGE USA will continue to infringe the '515 Patent.

**LGE MobileComm Infringes the '515 Patent**

169. LGE MobileComm has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or

methods covered by the '515 LGE Asserted Claims, including, but not limited to LGE MobileComm's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: D820 Red, Optimus F3Q D520, G Flex AT&T D950, G Flex T-Mobile D959, G Flex Sprint LS995, G2 Verizon VS980 White, D820 T-Mobile Black, D820 Sprint Black, D820 Sprint White, G2 Verizon VS980, G2 AT&T D800, G2 T-Mobile D801, G2 Sprint LS980, G2 Sprint LS980 White, G2 AT&T D800 White, D2 T-Mobile D801 White, Wine III UN530, Optimus F6 MS500, Optimus F6 D500, Enact VS890, Exalt VN360, Optimus F3 MS659, Optimus F3 P659, Optimus F3 VM720, Rumor Reflex S LN272S Blue, Rumor Reflex S LN272S Red, Fluid AN160, Optimus F7 LG870, Optimus F3 LS720 Titanium Silver, Optimus F7 US780, Optimus F3 LS720 Purple, LGE960W, Optimus F5 AS870, Optimus G Pro E980, Optimus G Pro E980 White, Envoy II UN160, Optimus Exceed VS840PP, Revere 2 VN150S, Cosmos 3 VN251S, Optimus Zone VS410PP, Lucid2 VS870, Spirit 4G MS870, LGE960, Optimus REGARD LW770, Mach LS860, Optimus G LS970, Optimus L9 P769, Freedom UN272, Optimus G E970, Venice LG730, Escape P870, Spectrum 2 VS930, Splendor US730, Intuition VS950, Motion 4G MS770, Optimus Zip LGL75C, Optimus Plus AS695, Optimus Elite VM696, Elite LS696, Viper LS840, Xpression C395, A340, Rumor Reflex LG272, Rumor Reflex LN272, Optimus M+ MS695, Lucid VS840, Spectrum VS920, Connect 4G MS840, Extravert VN271, Optimus Net L45C, and any other LGE MobileComm mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

170. LGE MobileComm makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 LGE Asserted Claims. Upon information and belief, LGE MobileComm also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 LGE Asserted Claims. LGE MobileComm also directly infringes the '515 LGE Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

171. LGE MobileComm has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 LGE Asserted Claims, including, but not limited to LGE MobileComm's upload services and/or devices listed above. LGE MobileComm provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 LGE Asserted Claims.

172. LGE MobileComm indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. LGE MobileComm received notice of the '515 Patent at least as of the date this lawsuit was filed. LGE MobileComm provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '515 Patent. Through its manufacture and sale of

the accused upload services and/or devices, LGE MobileComm specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

173. LGE MobileComm specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 LGE Asserted Claims in the United States. For example, LGE MobileComm provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of LGE MobileComm's products in an infringing way. Such instructions include at least "LG G2 User Guide,"<sup>54</sup> "User Guide, LG Optimus F3,"<sup>55</sup> "Owner's Manual, LG Envoy II,"<sup>56</sup> and other similar user guides and support documentation available on LGE MobileComm's support website.<sup>57</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '515 LGE Asserted Claims. LGE MobileComm knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '515 LGE Asserted Claims. LGE MobileComm thus knows that its actions actively induce infringement. LGE MobileComm performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

174. LGE MobileComm indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the

<sup>54</sup> Available on LGE MobileComm's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>55</sup> Available on LGE MobileComm's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>56</sup> Available on LGE MobileComm's website at <http://www.lg.com/us/support/software-manuals#>.

<sup>57</sup> See <http://www.lg.com/us/support>.

accused upload services and/or devices. LGE MobileComm received notice of the '515 Patent at least as of the date this lawsuit was filed.

175. LGE MobileComm's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and upload digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

176. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on LGE MobileComm's upload services and/or devices.

177. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

178. LGE MobileComm's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515



Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '515 Patent, LGE MobileComm's sales of its infringing products have no substantial non-infringing uses.

179. Accordingly, a reasonable inference is that LGE MobileComm offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

180. LGE MobileComm's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, LGE MobileComm will continue to infringe the '515 Patent.

### **Motorola Infringes the '515 Patent**

181. Motorola has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1-3, 6, 7, 10, 11, 14-20, 23-30, 33-39, 44, and 48 of the '515 Patent (hereinafter the "'515 Motorola Asserted Claims"), including, but not limited to Motorola's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Moto X, Moto G, Droid Maxx, Droid Ultra, Droid Mini, Moto X Developer Edition (GSM Networks), Moto X Developer Edition Verizon, Droid Maxx Developer Edition, Droid Razr M, Droid Razr Maxx HD, Motorola Photon Q 4G LTE, and any other Motorola mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the integrated

Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

182. Motorola makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 Motorola Asserted Claims. Upon information and belief, Motorola also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 Motorola Asserted Claims. Motorola also directly infringes the '515 Motorola Asserted Claims when its mobile devices execute the code responsible for the operation of the accused upload services and/or devices.

183. Motorola has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 Motorola Asserted Claims, including, but not limited to Motorola's upload services and/or devices listed above. Motorola provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 Motorola Asserted Claims.

184. Motorola indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. Motorola received notice of the '515 Patent at least as of the date this lawsuit was filed. Motorola provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services

and/or devices to infringe the '515 Patent. Through its manufacture and sale of the accused upload services and/or devices, Motorola specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

185. Motorola specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 Motorola Asserted Claims in the United States. For example, Motorola provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of Motorola's products in an infringing way. Such instructions include at least "Moto G User Guide,"<sup>58</sup> "Moto X User Guide,"<sup>59</sup> "User's Guide, Droid Ultra,"<sup>60</sup> and other similar user guides and support documentation available on Motorola's support website.<sup>61</sup> When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '515 Motorola Asserted Claims. Motorola knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '515 Motorola Asserted Claims. Motorola thus knows that its actions actively induce infringement. Motorola performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

186. Motorola indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload

<sup>58</sup> Available on Motorola's website at <https://motorola-global-portal.custhelp.com/ci/fattach/get/745538/1385483328/redirect/1/filename/68017554027a.pdf>.

<sup>59</sup> Available on Motorola's website at [https://motorola-global-portal.custhelp.com/ci/fattach/get/753825/1386258990/redirect/1/filename/Xfon\\_UG\\_KK\\_68017630001b.pdf](https://motorola-global-portal.custhelp.com/ci/fattach/get/753825/1386258990/redirect/1/filename/Xfon_UG_KK_68017630001b.pdf).

<sup>60</sup> Available on Motorola's website at <https://motorola-global-portal.custhelp.com/ci/fattach/get/675621/1377023134/redirect/1/filename/68017476001A.pdf>.

<sup>61</sup> See <https://motorola-global-portal.custhelp.com/app/home/>.

services and/or devices. Motorola received notice of the '515 Patent at least as of the date this lawsuit was filed.

187. Motorola's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and upload digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

188. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on Motorola's upload services and/or devices.

189. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

190. Motorola's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload

services and/or devices infringe the '515 Patent, Motorola's sales of its infringing products have no substantial non-infringing uses.

191. Accordingly, a reasonable inference is that Motorola offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

192. Motorola's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Motorola will continue to infringe the '515 Patent.

### **Apple Infringes the '515 Patent**

193. Apple has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1-3, 6, 7, 10, 11, 14-30, 33-41, 43, 44, 47-48, and 50-53 of the '515 Patent (hereinafter the "'515 Apple Asserted Claims'"), including, but not limited to Apple's upload services and/or devices. The accused upload services and/or devices that infringe one or more of the above-listed claims include, but are not limited to, at least the following: iPhone 3G, iPhone 3GS, iPhone 4, iPhone 4S, iPhone 5, iPhone 5S, iPhone 5C, iPad (first generation), iPad 2, iPad (third generation), iPad (fourth generation), iPad Air, iPad Mini (first generation), iPad Mini (second generation), iPod Touch (third generation), iPod Touch (fourth generation), iPod Touch (fifth generation), and any other Apple mobile device capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; Apple's Messages

Application, including its iMessage functionality and infrastructure; Apple's Messaging-related APIs; the integrated Twitter content upload functionality; and the MMS-to-Twitter functionality. Further discovery may reveal additional infringing products, models, and/or functionality.

194. Apple makes, uses, sells, offers for sale, or imports into the United States these upload services and/or devices and thus directly infringes at least the '515 Apple Asserted Claims. Additionally, upon information and belief Apple drafts the source code related to at least some of these upload services and/or devices. These acts are a direct infringement of the '515 Apple Asserted Claims. Upon information and belief, Apple also uses these upload services and/or devices via its internal use and testing in the United States, directly infringing each of the '515 Apple Asserted Claims. Apple also directly infringes the '515 Apple Asserted Claims when its mobile devices and/or its servers execute the code responsible for the operation of the accused upload services and/or devices.

195. Apple has and continues to induce and to contribute to infringement of the '515 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 Apple Asserted Claims, including, but not limited to Apple's upload services and/or devices listed above. Apple provides these upload services and/or devices to others, such as manufacturers, customers, resellers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services and/or devices that infringe the '515 Apple Asserted Claims.

196. Apple indirectly infringes the '515 Patent by inducing infringement by others, such as manufacturers, customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the manufacturers, customers, resellers, and/or end-use customers of the accused upload services and/or devices. Apple received notice of the '515

Patent at least as of the date this lawsuit was filed. Apple provides at least the accused upload services and/or devices to others, such as manufacturers, customers, resellers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services and/or devices to infringe the '515 Patent. Through its manufacture and sale of the accused upload services and/or devices, Apple specifically intended its manufacturers, customers, resellers, and/or end-use customers to infringe the '515 Patent.

197. Apple specifically intends for others, such as manufacturers, customers, resellers, and end-use customers, to directly infringe the '515 Apple Asserted Claims in the United States. For example, Apple provides instructions to manufacturers, customers, resellers and end-use customers regarding the use and operation of Apple's products in an infringing way. Such instructions include at least "iPhone User Guide for iPhone OS 3.1 Software,"<sup>62</sup> "iPhone User Guide For iOS 7 (October 2013),"<sup>63</sup> "iPad User Guide For iOS 7 (October 2013),"<sup>64</sup> "iPod touch User Guide For iOS 7 (October 2013),"<sup>65</sup> "MFMessageComposeViewController Class Reference,"<sup>66</sup> and other similar user guides and support documentation available on Apple's support<sup>67</sup> and developer<sup>68</sup> websites. When manufacturers, customers, resellers, and end-use customers follow such instructions, they directly infringe the '515 Apple Asserted Claims. Apple knows that by providing such instructions, manufacturers, customers, resellers, and end-use customers follow those instructions, and directly infringe the '515 Apple Asserted Claims.

<sup>62</sup> Available on Apple's website at

[http://manuals.info.apple.com/MANUALS/0/MA616/en\\_US/iPhone\\_iOS3.1\\_User\\_Guide.pdf](http://manuals.info.apple.com/MANUALS/0/MA616/en_US/iPhone_iOS3.1_User_Guide.pdf).

<sup>63</sup> Available on Apple's website at

[http://manuals.info.apple.com/MANUALS/1000/MA1565/en\\_US/iphone\\_user\\_guide.pdf](http://manuals.info.apple.com/MANUALS/1000/MA1565/en_US/iphone_user_guide.pdf).

<sup>64</sup> Available on Apple's website at

[http://manuals.info.apple.com/MANUALS/1000/MA1595/en\\_US/ipad\\_user\\_guide.pdf](http://manuals.info.apple.com/MANUALS/1000/MA1595/en_US/ipad_user_guide.pdf).

<sup>65</sup> Available on Apple's website at

[http://manuals.info.apple.com/MANUALS/1000/MA1596/en\\_US/ipod\\_touch\\_user\\_guide.pdf](http://manuals.info.apple.com/MANUALS/1000/MA1596/en_US/ipod_touch_user_guide.pdf).

<sup>66</sup> Available on Apple's website at

[https://developer.apple.com/library/ios/documentation/MessageUI/Reference/MFMessageComposeViewController\\_class/Reference/Reference.html](https://developer.apple.com/library/ios/documentation/MessageUI/Reference/MFMessageComposeViewController_class/Reference/Reference.html).

<sup>67</sup> See <http://www.apple.com/support/>.

<sup>68</sup> See <https://developer.apple.com/>.

Apple thus knows that its actions actively induce infringement. Apple performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

198. Apple indirectly infringes the '515 Patent, by contributing to infringement by others, such as customers, resellers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by the customers, resellers, and/or end-use customers of the accused upload services and/or devices. Apple received notice of the '515 Patent at least as of the date this lawsuit was filed.

199. Apple's upload services and/or devices allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services and/or devices are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices must necessarily pre-process and upload digital media in an infringing manner. Upon information and belief, the accused upload services and/or devices cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

200. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on Apple's upload services and/or devices.

201. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused



upload services and/or devices. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

202. Apple's accused upload services and/or devices, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services and/or devices. The accused upload services and/or devices are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services and/or devices infringe the '515 Patent, Apple's sales of its infringing products have no substantial non-infringing uses.

203. Accordingly, a reasonable inference is that Apple offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

204. Apple's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Apple will continue to infringe the '515 Patent.

#### **Twitter Infringes the '515 Patent**

205. Twitter has and continues to directly infringe the '515 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1-3, 5-7, 10, 11, 14-19, 21-30, 33-38, 40, 41, 44, and 48 of the '515 Patent (hereinafter the "'515 Twitter Asserted Claims'"), including, but not limited to Twitter's upload services. The

accused upload services that infringe one or more of the above-listed claims include, but are not limited to, at least the following: the Twitter Application for iPhone, the Twitter Application for iPad, the Twitter Application for Android, the Twitter Application for Android Tablet, and any other Twitter Application capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; the Twitter content upload functionality integrated into the native sharing options for iOS and Android devices; Twitter's APIs related to obtaining digital content, pre-processing it, and transmitting it to another device, server, or location; Twitter's mobile website; and Twitter's website-related infrastructure. Further discovery may reveal additional infringing products, models, and/or functionality.

206. Twitter makes, uses, sells, offers for sale, or imports into the United States these upload services and thus directly infringes at least the '515 Twitter Asserted Claims. Additionally, upon information and belief, Twitter creates the source code related to each of these upload services. These acts are a direct infringement of the '515 Twitter Asserted Claims. Upon information and belief, Twitter also uses these upload services via its internal use and testing in the United States, directly infringing each of the '515 Twitter Asserted Claims. Twitter also directly infringes the '515 Twitter Asserted Claims when it executes its code responsible for the operation of the accused upload services.

207. Twitter has and continues to induce and to contribute to infringement of the '515 Patent by intending that others, including co-defendants HTC Corp., HTC America, LGE Inc., LGE USA, LGE MobileComm, Motorola, and Apple, make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '515 Twitter Asserted Claims, including, but not limited to Twitter's upload services listed above. Twitter provides these upload services to others, such as co-defendants, manufacturers, customers, resellers, application

developers, and end-use consumers who in turn use, offer for sale, or sell in the United States these upload services that infringe the '515 Twitter Asserted Claims.

208. Twitter indirectly infringes the '515 Patent by inducing infringement by others, such as co-defendants, manufacturers, customers, resellers, application developers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed co-defendants, the manufacturers, customers, resellers, application developers, and/or end-use customers of the accused upload services. Twitter received notice of the '515 Patent at least as of the date this lawsuit was filed. Twitter provides at least the accused upload services to others, such as co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers, in the United States, who, in turn, offer for sale, sell, or use these upload services to infringe the '515 Patent. Through its manufacture and sale of the accused upload services, Twitter specifically intended co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers to infringe the '515 Patent.

209. Twitter specifically intends for others, such as co-defendants, to directly infringe the '515 Twitter Asserted Claims in the United States. For example, Twitter provides its accused upload services to HTC Corp. for integration into HTC Corp.'s accused upload services and/or devices. For example, Twitter provides its accused upload services to HTC America for integration into HTC America's accused upload services and/or devices. For example, Twitter provides its accused upload services to LGE Inc. for integration into LGE Inc.'s accused upload services and/or devices. For example, Twitter provides its accused upload services to LGE USA for integration into LGE USA's accused upload services and/or devices. For example, Twitter provides its accused upload services to LGE MobileComm for integration into LGE MobileComm's accused upload services and/or devices. For example, Twitter provides its

accused upload services to Motorola for integration into Motorola's accused upload services and/or devices. For example, Twitter provides its accused upload services to Apple for integration into Apple's accused upload services and/or devices. When co-defendants include the integrated Twitter content upload functionality in their accused upload services and/or devices, they directly infringe the '515 Twitter Asserted Claims. Twitter knows that providing the integrated Twitter content upload functionality to co-defendants induces co-defendants to directly infringe the '515 Twitter Asserted Claims. Twitter thus knows that its actions actively induce infringement. Twitter performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

210. Twitter also specifically intends for others, such as manufacturers, customers, resellers, application developers, and end-use customers, to directly infringe the '515 Twitter Asserted Claims in the United States. For example, Twitter provides instructions to manufacturers, customers, resellers, application developers, and end-use customers regarding the use and operation of Twitter's accused services in an infringing way. Such instructions include at least "Getting started with Twitter for iPhone,"<sup>69</sup> "Getting started with Twitter for Android,"<sup>70</sup> "Using mobile.twitter.com on a smartphone or tablet,"<sup>71</sup> "POST statuses/update\_with\_media,"<sup>72</sup> and other similar user guides and support documentation available on Twitter's support<sup>73</sup> and developer<sup>74</sup> websites. When manufacturers, customers, resellers, application developers, and end-use customers follow such instructions, they directly infringe the '515 Twitter Asserted

<sup>69</sup> Available on Twitter's website at <https://support.twitter.com/articles/20169500>.

<sup>70</sup> Available on Twitter's website at <https://support.twitter.com/groups/54-mobile-apps/topics/223-android/articles/168930-getting-started-with-twitter-for-android>.

<sup>71</sup> Available on Twitter's website at <https://support.twitter.com/groups/54-mobile-apps/topics/224-mobile-web/articles/20113771-using-mobile-twitter-com-on-a-smartphone-or-tablet>.

<sup>72</sup> Available on Twitter's website at [https://dev.twitter.com/docs/api/1.1/post/statuses/update\\_with\\_media](https://dev.twitter.com/docs/api/1.1/post/statuses/update_with_media).

<sup>73</sup> See <https://support.twitter.com/>.

<sup>74</sup> See <https://dev.twitter.com/>.

Claims. Twitter knows that by providing such instructions, manufacturers, customers, resellers, application developers, and end-use customers follow those instructions, and directly infringe the '515 Twitter Asserted Claims. Twitter thus knows that its actions actively induce infringement. Twitter performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '515 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

211. Twitter indirectly infringes the '515 Patent, by contributing to infringement by others, such as co-defendants, customers, resellers, application developers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by co-defendants, customers, resellers, application developers, and/or end-use customers of the accused upload services. Twitter received notice of the '515 Patent at least as of the date this lawsuit was filed.

212. Twitter's upload services allow for the obtaining of digital content, pre-processing it, and transmitting it to another device, server, or location. When the accused upload services are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services and/or devices pre-process and send digital media in an infringing manner. Upon information and belief, the accused upload services cannot operate in an acceptable manner absent the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location.

213. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is especially made or especially adapted to operate on Twitter's upload services.

214. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location is not a

staple article or commodity of commerce and that its use is required for operation of the accused upload services. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

215. Twitter's accused upload services, with the ability to obtain digital content, pre-process it, and transmit it to another device, server, or location, are each a material part of the invention of the '515 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services. The accused upload services are especially made or adapted to infringe the '515 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services infringe the '515 Patent, Twitter's sales of its infringing products have no substantial non-infringing uses.

216. Accordingly, a reasonable inference is that Twitter offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '515 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

217. Twitter's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Twitter will continue to infringe the '515 Patent.

### **COUNT III**

#### **Infringement of the '557 Patent**

218. Summit 6 repeats and realleges the allegations in paragraphs 1-217 as though fully set forth herein.

#### **Twitter Infringes the '557 Patent**

219. Twitter has and continues to directly infringe the '557 Patent by making, using, selling, offering for sale, or importing into the United States products and/or methods covered by claims 1, 2, 4, 7, 10-16, 18, 23-29, 31, 33-38, and 41-44 of the '557 Patent (hereinafter the "'557 Twitter Asserted Claims"), including, but not limited to Twitter's upload services. The accused upload services that infringe one or more of the above-listed claims include, but are not limited to, at least the following: Twitter's mobile website, mobile.twitter.com, and related infrastructure when used on a smartphone or tablet device, and any other Twitter website and related infrastructure capable of obtaining digital content, pre-processing it, and transmitting it to another device, server, or location. Further discovery may reveal additional infringing products, models, and/or functionality.

220. Twitter makes, uses, sells, offers for sale, or imports into the United States these upload services and thus directly infringes at least the '557 Twitter Asserted Claims. Additionally, upon information and belief, Twitter creates the source code related to each of these upload services. These acts are a direct infringement of the '557 Twitter Asserted Claims. Upon information and belief, Twitter also uses these upload services via its internal use and testing in the United States, directly infringing each of the '557 Twitter Asserted Claims. Twitter also directly infringes the '557 Twitter Asserted Claims when it executes its code responsible for the operation of the accused upload services.

221. Twitter has and continues to induce and to contribute to infringement of the '557 Patent by intending that others make, use, import into, offer for sale, or sell in the United States, products and/or methods covered by the '557 Twitter Asserted Claims, including, but not limited to Twitter's upload services listed above. Twitter provides these upload services to others, such as co-defendants, manufacturers, customers, resellers, application developers, and end-use

consumers who in turn use in the United States these upload services that infringe the '557 Twitter Asserted Claims.

222. Twitter indirectly infringes the '557 Patent by inducing infringement by others, such as co-defendants, manufacturers, customers, resellers, application developers, and end-use customers, in accordance with 35 U.S.C. § 271(b) in this District and elsewhere in the United States. Direct infringement is the result of activities performed co-defendants, the manufacturers, customers, resellers, application developers, and/or end-use customers of the accused upload services. Twitter received notice of the '557 Patent at least as of the date this lawsuit was filed. Twitter provides at least the accused upload services to others, such as co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers, in the United States, who, in turn, use these upload services to infringe the '557 Patent. Through its manufacture and sale of the accused upload services, Twitter specifically intended co-defendants, manufacturers, customers, resellers, application developers, and/or end-use customers to infringe the '557 Patent.

223. Twitter specifically intends for others, such as manufacturers, customers, resellers, application developers, and end-use customers, to directly infringe the '557 Twitter Asserted Claims in the United States. For example, Twitter provides instructions to manufacturers, customers, resellers, application developers, and end-use customers regarding the use and operation of Twitter's accused services in an infringing way. Such instructions include at least "Using mobile.twitter.com on a smartphone or tablet,"<sup>75</sup> "I'm having trouble with mobile.twitter.com,"<sup>76</sup> "FAQs about mobile.twitter.com,"<sup>77</sup> and other similar user guides and

<sup>75</sup> Available on Twitter's website at <https://support.twitter.com/articles/20113771-using-mobile-twitter-com-on-a-smartphone-or-tablet>.

<sup>76</sup> Available on Twitter's website at [https://dev.twitter.com/docs/api/1.1/post/statuses/update\\_with\\_media](https://dev.twitter.com/docs/api/1.1/post/statuses/update_with_media).

<sup>77</sup> Available on Twitter's website at <https://support.twitter.com/groups/54-mobile-apps/topics/224-mobile-web/articles/20169900-faqs-about-mobile-twitter-com>.



support documentation available on Twitter's support<sup>78</sup> and developer<sup>79</sup> websites. When manufacturers, customers, resellers, application developers, and end-use customers follow such instructions, they directly infringe the '557 Twitter Asserted Claims. Twitter knows that by providing such instructions, manufacturers, customers, resellers, application developers, and end-use customers follow those instructions, and directly infringe the '557 Twitter Asserted Claims. Twitter thus knows that its actions actively induce infringement. Twitter performed the acts that constitute induced infringement, and would induce actual infringement, with the knowledge of the '557 Patent, and with knowledge or willful blindness that the induced acts would constitute infringement.

224. Twitter indirectly infringes the '557 Patent, by contributing to infringement by others, such as co-defendants, customers, resellers, application developers, and end-use customers, in accordance with 35 U.S.C. § 271(c) in this District and elsewhere in the United States. Direct infringement is the result of activities performed by co-defendants, customers, resellers, application developers, and/or end-use customers of the accused upload services. Twitter received notice of the '557 Patent at least as of the date this lawsuit was filed.

225. Twitter's upload services allow for the obtaining of digital content, pre-processing it, and transmitting it to or receiving it at another device, server, or location. When the accused upload services are used to send digital content of a certain size and/or dimension over carrier networks and/or wi-fi networks, the accused upload services pre-process that digital content in an infringing manner. Upon information and belief, the accused upload services cannot operate in an acceptable manner absent the ability to pre-process media objects.

<sup>78</sup> See <https://support.twitter.com/>.

<sup>79</sup> See <https://dev.twitter.com/>.

226. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to or receive it at another device, server, or location is especially made or especially adapted to operate on Twitter's upload services.

227. A reasonable inference to be drawn from the facts set forth is that the ability to obtain digital content, pre-process it, and transmit it to or receive it at another device, server, or location is not a staple article or commodity of commerce and that its use is required for operation of the accused upload services. Any other use would be unusual, far-fetched, illusory, impractical, occasional, aberrant, or experimental.

228. Twitter's accused upload services, with the ability to obtain digital content, pre-process it, and transmit it to or receive it at another device, server, or location, are each a material part of the invention of the '557 Patent and are especially made for the infringing manufacturing, offering for sale, sales, and use of the accused upload services. The accused upload services are especially made or adapted to infringe the '557 Patent. Because the manufacturing, offering for sale, sales, and use of the accused upload services infringe the '557 Patent, Twitter's sales of its infringing products have no substantial non-infringing uses.

229. Accordingly, a reasonable inference is that Twitter offers to sell, or sells within the United States a component of a patented machine, manufacture, combination, or composition, or a material or apparatus for use in practicing the '557 Patent, constituting a material part of the invention, knowing the same to be especially made or especially adapted for use in an infringement of such patent, and not a staple article or commodity of commerce suitable for substantial non-infringing use.

230. Twitter's acts have caused, and unless restrained and enjoined, will continue to cause irreparable injury and damage to Summit 6 and its affiliates for which there is no adequate remedy at law. Unless enjoined by this Court, Twitter will continue to infringe the '557 Patent.

**DEMAND FOR JURY TRIAL**

Summit 6 hereby demands a jury for all issues so triable.

**PRAYER FOR RELIEF**

WHEREFORE, Summit 6 respectfully requests that this Court enter judgment in its favor and grant the following relief:

- A. that Defendants' accused products infringe the claims of the Patents-in-Suit;
- B. award Summit 6 damages in an amount adequate to compensate Summit 6 for Defendants' accused products' infringement of the claims of the Patents-in-Suit, but in no event less than a reasonable royalty under 35 U.S.C. § 284;
- C. award enhanced damages pursuant to 35 U.S.C. § 284;
- D. award Summit 6 pre-judgment interest and post-judgment interest at the maximum rate allowed by law;
- E. award Summit 6 its costs of court;
- F. enter an order declaring that this is an exceptional case and award Summit 6 its reasonable attorneys' fees pursuant to 35 U.S.C. § 285;
- G. order an accounting for damages;
- H. enter a preliminary and permanent injunction enjoining Defendants, and all others in active concert with Defendants, from further infringement of the Patents-in-Suit;
- I. award a compulsory future royalty for any patent of the Patents-in-Suit for which an injunction does not issue; and
- J. award such further relief as the Court deems just and proper.

Dated: February 19, 2014

Respectfully submitted,

**MCKOOL SMITH, P.C.**

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**SUMMIT 6 LLC**

# Exhibit A

(12) **United States Patent**  
**Wood et al.**

(10) **Patent No.:** **US 6,895,557 B1**  
(45) **Date of Patent:** **May 17, 2005**

(54) **WEB-BASED MEDIA SUBMISSION TOOL**

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6,516,340 B2 2/2003 Boys

(75) Inventors: **Lisa T. Wood**, Danville, CA (US);  
**Scott M. Lewis**, Danville, CA (US);  
**Robin T. Fried**, Berkeley, CA (US)

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*Primary Examiner*—John Cabeca  
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(74) *Attorney, Agent, or Firm*—Frost Brown Todd LLC

(73) Assignee: **IPIX Corporation**, San Ramone, CA (US)

(\*) Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 U.S.C. 154(b) by 0 days.

(21) Appl. No.: **09/357,836**

(22) Filed: **Jul. 21, 1999**

(51) **Int. Cl.**<sup>7</sup> ..... **G09G 5/00**

(52) **U.S. Cl.** ..... **715/744**; 715/748; 715/769;  
707/102; 709/236

(58) **Field of Search** ..... 707/1, 10, 3, 4,  
707/2, 100, 102, 513, 523, 101; 345/418,  
473, 769, 770, 744; 709/219, 246, 232;  
382/305

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#### (57) **ABSTRACT**

The present invention, generally speaking, provides an improved web-based media submission tool. As with some existing tools, operation of the tool is drag and drop or the user can "click" to browse a directory to select media objects. Unlike existing tools, the tool provides the user an opportunity to confirm the submission, for example by generating a thumbnail image of an image file that has been dragged and dropped. Batch submission is provided for in which a user drags and drops a plurality of images or other media objects. Submission from a web page to a web page is also provided for. The submission tool is configurable to perform a variable amount of intelligent preprocessing on media objects prior to upload. In the case of digital images, the tool can perform sizing and formatting, for example. Information capture is performed with information being uploaded together with the media objects. In an exemplary embodiment, information capture is both user-transparent (e.g., user ID and/or password) and user-visible (e.g., the user can provide captions for media objects). The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases.

**74 Claims, 5 Drawing Sheets**

Homes <b>Realtor Services</b>	
<a href="#">Getting Started</a>   <a href="#">Send Photos</a>   <a href="#">Homes</a>   <a href="#">Financing</a>   <a href="#">Offer &amp; Closing</a>   <a href="#">Help</a>	
<b>Today's Rates</b> 30-Year Fixed 6.75% 15-Year Fixed 6.45% 1-Year Adjustable 5.6% *National average rates <a href="#">Find a Loan</a>   <a href="#">Rate News</a>	<b>Adding Photos to your listings</b> Get better exposure for your listings by including some pictures of the property. It's easy! Just locate the folder on your computer containing your photos, and then drag them into the boxes below. Select a descriptive caption for each photo and then click the "Send Photos" button.
<b>Highlights</b> Welcome to Homes! We hope you enjoy our site. Please send us your feedback	<div style="display: flex; justify-content: space-around;"> <div>           Drag Photo Here            Front View ▾         </div> <div>           Drag Photo Here            Front View ▾         </div> <div>           Drag Photo Here            Front View ▾         </div> <div>           Drag Photo Here            Front View ▾         </div> </div>
<b>Home &amp; Rate Trackers</b> Receive free e-mail updates	Listing Name <input type="text"/> <div style="text-align: right;"><a href="#">Send Photos</a></div>

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<h2>Homes Realtor Services</h2>		<a href="#">Getting Started</a> <a href="#">Send Photos</a> <a href="#">Homes</a> <a href="#">Financing</a> <a href="#">Offer &amp; Closing</a> <a href="#">Help</a>							
<h3>Today's Rates</h3> <table> <tr> <td>30-Year Fixed</td> <td>6.75%</td> </tr> <tr> <td>15-Year Fixed</td> <td>6.45%</td> </tr> <tr> <td>1-Year Adjustable</td> <td>5.6%</td> </tr> </table> <p>*National average rates</p> <div> <a href="#">Find a Loan</a> <a href="#">Rate News</a> </div>		30-Year Fixed	6.75%	15-Year Fixed	6.45%	1-Year Adjustable	5.6%	<h3>Adding Photos to your listings</h3> <p>Get better exposure for your listings by including some pictures of the property. Its easy! Just locate the folder on your computer containing your photos, and then drag them into the boxes below. Select a descriptive caption for each photo and then click the "Send Photos" button.</p> <div> <div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div> <div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div> <div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div> </div> <div> <div>Listing Name</div> <div>Send Photos</div> </div>	
30-Year Fixed	6.75%								
15-Year Fixed	6.45%								
1-Year Adjustable	5.6%								
<h3>Highlights</h3> <p>Welcome to Homes!</p> <p>We hope you enjoy our site</p> <p>Please send us your <a href="#">feedback</a></p>		<h3>Home &amp; Rate Trackers</h3> <p>Receive free e-mail updates</p>							

FIG. 1






















<p>Picture? PIC</p> <p>Digital Image Processing by PictureWorks</p> 	<p><input type="checkbox"/> (\$0.25 charge) (optional)</p> <p><b>Adding a photo of your item</b></p> <p>Get better exposure for your items by including a picture. Its easy! Just locate the folder on your computer containing your photos, and then drag a photo into the box below.</p> <div data-bbox="508 961 847 1476"><p>Click Here to Select Images</p></div>						
<p>SurroundView?</p> <p>Digital Image Processing by PictureWorks</p> 	<p><input type="checkbox"/> (\$2.00 charge) (optional)</p> <p><b>Adding a SurroundView</b></p> <p>Really show off your item. Add a SurroundView. Its easy! Just locate the folder on your computer containing your photos, and then drag up to six photos into the boxes below. The photos will be combined into an animated presentation.</p> <div data-bbox="1070 548 1268 1482"><table border="1"><tr><td><p>Click Here to Select Images</p></td><td><p>Click Here to Select Images</p></td><td><p>Click Here to Select Images</p></td><td><p>Click Here to Select Images</p></td><td><p>Click Here to Select Images</p></td><td><p>Click Here to Select Images</p></td></tr></table></div>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>
 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>	 <p>Click Here to Select Images</p>		

FIG. 2



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**PWImageControl Interface:**

<b>Interface Name</b>	<b>Type</b>	<b>Definition</b>	<b>Signature</b>
<b>ScaleImage</b>	function	Scales an image in place or to a temporary file	ScaleImage( destinationType as String, changeDimensions as Integer, destWidth As Integer, destHeight As Integer, '0-100 destQuality As Integer, '0-100 generateOutputFilename As Boolean ' create temp file ) As String
<b>DelTempFile</b>	sub	Deletes temporary file created with ScaleImage	DelTempfile()
<b>fileName</b>	String property	Name of file shown in image well	fileName as String
<b>imageName</b>	String property	String value from image caption box	imageName as String
<b>ClearImage</b>	sub	Clears the image from the display and redisplay the logo and instructional text	ClearImage()
<b>backgroundColor</b>	String property	Hexidecimal RGB string value in format "FFFFFF" or "#FFFFFF"	backgroundColor as String
<b>textColor</b>	String property	Hexidecimal RGB string value in format "FFFFFF" or "#FFFFFF"	textColor as String

**FIG. 3**

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**US 6,895,557 B1****PWMediaSendControl Interface:**

Interface Name	Type	Definition	Signature
<b>SubmitMediaRequest</b>	function	Transfers image and returns a status code. The action is successful if the return code is 0. If non-zero return code examine ServerRetString for a reason.	<b>SubmitMediaRequest</b> ( <i>UserID As String, 'partner UID</i> <i>Password As String, 'partner password</i> <i>ServiceType As String, "HOST" or "MIRROR"</i> <i>IndustryCode As Integer, 'e.g., 65=real estate</i> <i>MediaType As Integer, '1=image 2=video 3=sound</i> <i>OpCode As Integer, '1=Add, 2=Update, 3=Delete</i> <i>IPAddr As String, 'Destination IP address</i> <i>filename As String, 'File to send</i> <i>MediaGroupID As String, 'Used to build unique key</i> <i>MediaExtendedID As String, ' ""</i> <i>MediaSequenceNum As Integer, ' ""</i> <i>Desc1 As String, '255 chars</i> <i>Desc2 As String, '255 chars</i> <i>Desc3 As String</i> <i>preScaled as Integer) as Integer '255 chars</i>
<b>ServerRetString</b>	String property	Return value from SubmitMediaRequest. If call made on HOST service, this string contains the IMG SRC url	<i>ServerRetString as String</i>

**FIG. 4A**

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*Usage Example (VB Script)*  
tempFileName=DragImage1.ScaleImage(320, 240, 89, 1) 'scale the image object 'DragImage1'  
result=UpdHandler.SubmitMediaRequest(  
    UserID,  
    Password,  
    ServiceType,  
    0,  
    1,  
    1,  
    ipAddress,  
    tempFileName,  
    misNum.Value,  
    zipcode,  
    imageCount,  
    title,  
    desc2,  
    desc3,  
    1)  
DragImage3.DelTempFile 'delete the temp file

**FIG. 4B**

**FIG. 4**

FIG. 4A
FIG. 4B

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**WEB-BASED MEDIA SUBMISSION TOOL**

The present application is related by subject matter to U.S. application Ser. No. 09/440,461, now U.S. Pat. No. 6,732,162.

**BACKGROUND OF THE INVENTION****1. Field of the Invention**

The present invention relates to the handling, manipulation and processing of digital content and more particularly to the transportation and Internet publishing of digital content, particularly image media objects and rich media.

**2. State of the Art**

Much of the phenomenal success of the web is attributable to its graphical nature. Literally, a picture is worth a thousand words. The capture of digital images has become routine, using digital cameras and scanners. Nevertheless, although the handling of images by website creators has achieved a high degree of automation, for the average technology user (the "imaging civilian"), manipulating and sharing digital images over the Internet remains a cumbersome and daunting process. Piecemeal solutions that have been devised for handling digital images require a level of sophistication that is beyond that of the ordinary user. For example, transferring a digital image may require first downloading a FTP program, then installing it, then running it and connecting to an FTP server by typing the server name in the connection dialog, then navigating to the proper subdirectory, selecting the files to be uploaded, making sure that the program is in binary transfer mode, then sending the files. For the imaging civilian, such an involved process can be daunting to say the least.

Additionally, as technologies advance and casual users begin to experiment with other media objects, such as streaming video, 3D objects, slide shows, graphics, movies, and even sound files that accompany imaging data, the processes required to share these rich media types on the Internet becomes exponentially more complicated and prohibitive. As the realization of the Internet as an interactive, content rich medium becomes more and more a reality, the need for enabling the use and distribution of rich content and media on the Internet will become the gating factor to its long term success.

A broad-based solution to the foregoing problem requires a web-based media submission tool that allows for submission of media objects in a convenient, intuitive manner. A company named Caught in the Web, has attempted to create a broad-based media submission tool known as "ActiveUpload". ActiveUpload allows an arbitrary file to be dragged and dropped onto a web page control for upload to the web server. An ActiveUpload control allows users to, without leaving a web page, transfer files to a server (Internet or intranet) by selecting the files on the user's desktop that the user wants to transfer, then dragging them onto the web page. For example, a user, having visited a web page, can contribute pictures, documents, zip files, etc., without having to leave the web page and use an FTP program. Standard web authoring tools can be used to integrate ActiveUpload into web pages and change the behavior of the control.

Although Caught in the Web's ActiveUpload tool simplifies the user experience, it does little toward furthering "backend" automation in the handling and distribution of media objects and has no built in "intelligence" to streamline the process of handling and transporting rich media objects from the front end.

**SUMMARY OF THE INVENTION**

The present invention, generally speaking, provides an improved web-based media submission tool. As with some

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existing tools, operation of the tool is drag and drop or the user can "click" to browse a directory to select media objects. Unlike existing tools, the tool provides several unique and valuable functions. For example, the tool provides the user an opportunity to confirm the submission with a visual representation, for example by generating a thumbnail image of the rich media file that has been selected. Additionally, batch submission is provided to allow a user to drag and drop or select a plurality of images or other media objects. Submission from a web page to a web page is also provided for. Even more importantly, the submission tool is configurable to perform a variable amount of intelligent preprocessing on media objects prior to upload. In the case of digital images, the tool can perform sizing and formatting, for example. Information capture is performed with information being uploaded together with the media objects. In an exemplary embodiment, information capture is both user-transparent (e.g., user ID and/or password) and user-visible (e.g., the user can provide captions for media objects). The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases.

**BRIEF DESCRIPTION OF THE DRAWING**

The present invention may be further understood from the following description in conjunction with the appended drawing. In the drawing:

FIG. 1 is a diagram of an exemplary web page providing media object acquisition functions;

FIG. 2 is a diagram of another exemplary web page providing image acquisition functions;

FIG. 3 is a table pertaining to a first portion of the Prepare and Post component design; and

FIG. 4 is a table pertaining to a second portion of the Prepare and Post component design.

**DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS**

The following describes the Prepare and Post™ tools, which prepares and submits media objects from inside a standard browser, referred to as the first location, to a second location or server. The media objects may be pictures (images), movies, videos, graphics, sound clips, etc. Although in the following description the submission of images is described in greatest detail, the same principles apply equally to media objects of all descriptions.

The Prepare and Post tools refers to browser-side components which together provide the ability to submit and transport media objects over the web to be stored and served. Using the Prepare and Post tools, end users can submit images in an immediate, intuitive manner. No technical sophistication is required. In particular, understanding technical terms such as JPEG, resolution, pixel, kilobyte, transfer protocol, IP address, FTP etc., is not required, since the Prepare and Post tools handles all of these tasks for the user. The benefits of the Prepare and Post tool are:

- to the image submitter, the ability to submit media objects to web pages immediately without needing to overcome technical obstacles;
- to the image submitter, the ability to submit media objects to web pages "as is" without making modifications to the media objects prior to sending;
- to PictureWorks web site partner, access to a uniform, standardized, reliable and secure channel for media acquisition;

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- d) to PictureWorks web site partner, access to contributed media “made to order”, it meets their imaging specifications every time without human intervention;
- e) to PictureWorks web site partner, the ability to provide web site visitors with an easy, error free way to contribute media;
- f) to PictureWorks web site partner, access to contributed media in “real time” with no time delays.

The two primary components used in the Prepare and Post tools which carry out these functions are 1) the media object identifier and 2) the media sender.

In general, the media object identifier functions to provide a graphical interface for placing and associating a media object from a user’s desktop onto a web page. The media sender carries out the function of transmitting media objects to a second location.

There are two ways media objects on the first location become associated with a media object identifier. The first is through a “drag and drop” behavior where the user clicks on a media object to select the one they want to submit. The media object is then dragged to the media object identifier. Releasing the mouse button associates the media object with the media object identifier. This behavior is allowed in web browsers that support drag and drop functionality. The Prepare and Post tools enable these browsers to accept media objects via drag and drop by providing the media object identifier as an ActiveX component.

The second way to associate a media object on the first location with the media object identifier is to click on the media object identifier to browse for media objects, then select the media object of choice. This method is made available for web browsers where the media object identifier needs to be a pure Java component. (Such “signed applet browsers” like Netscape Navigator) In this instance, the user may be asked to choose a media object in a similar manner as when choosing a file to be opened, either by graphical navigation or by specifying a path name. For example, a prompt associated with the media object identifier may be displayed prompting the user to click within the media object identifier. Clicking within the media object identifier brings up a browse dialog. Using the browse dialog, the user selects the desired media object, which is then placed in the media object identifier. The Prepare and Post tools will generate a visual representation or thumbnail of the media object, a feature currently not available in signed applet browsers.

Real estate is an example of a prime application of the Prepare and Post tools. “Curb appeal” is of great importance in the realty industry and can only be judged by “drive-bys,” which are time-consuming and laborious, or by the availability of images. The Prepare and Post tools make real estate images readily available with a minimal amount of effort.

Referring to FIG. 1, an example is shown of a realty web page featuring the described Prepare and Post tools functionality. The user associates images with a media object identifier via the methods described above and selects appropriate captions for the images, e.g., living room, family room, etc. The captions may be typed in or selected from menus. The user also supplies identifying information, in this instance the MLS listing number. When the user clicks the Send button, the images are uploaded and processed

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immediately according to the configuration of the Prepare and Post tools.

The Prepare and Post tools also support a batch interface, allowing a plurality of images to be submitted simultaneously as in the case of a professional photographer, for example. The opportunity for user confirmation is again provided, e.g., by displaying a visual representation of the images in the batch.

If a mistake is made such that the wrong image is placed in a media object identifier, the correct image may be placed in the media object identifier. The correct image will replace the mistaken image. Alternatively, the user may remove an image from a media object identifier by right-clicking on the media object identifier and selecting Remove within a resulting pop-up menu.

Note that any number of media object identifiers may be provided on a web page and that the media object identifiers may be separate or grouped. This is evident in FIG. 2. The number of media object identifiers provided on a page can be pre-configured and fixed, allowing no user intervention, or the media object identifiers can be generated dynamically, allowing the user to determine how many media object identifiers they need for media submission. FIG. 2 shows a web page with various sizes of media object identifiers. If a media object identifier is separate, its image will be transmitted separately to the second location. If an media object identifier is part of a group, its image will be transmitted to the second location as part of a group of images that are stored together and cataloged together. Media object identifiers that are associated together as a group are noted as such in the web page interface and transparently in the media object identifier object code. Moreover, a web page may have multiple groups of media object identifiers, or “groups of groups.”

The usefulness of images is greatly enhanced by capturing and identifying information about the images and submitting the identifying information with the images. Information may be image-specific, user-specific or both. The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases. Information capture may be overt or covert or both. This unique automatic database integration enables the images to be served with the proper web page data. Overt information capture relies upon the user to make menu selections of appropriate captions as illustrated in FIG. 1, or to make text entries within text fields, or both. The Prepare and Post tools are easily customized to accept menu selections and text fields for different applications. Covert information capture occurs by having the web browser automatically pass to the Prepare and Post tools known information such as a user ID or, password used to access the web page.

A key differentiator of the Prepare and Post tools is the browser, or client-side intelligence built into the tools. This intelligence directly provides features including those already outlined such as associating data with media objects, generating a visual representation of the media objects and generating media object identifiers dynamically or in a pre-set manner. Other features are also provided via this intelligence, specifically, the ability to control the width and height of the media object identifier and the ability to

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preprocess the media objects in any number of ways prior to transporting to a second location. In the case of an image media object for example, the Prepare and Post tools may resize the image, (i.e., increase or decrease its size as defined by either physical dimensions, pixel count, or kilobytes). Compression, for example, is a type of sizing. The Prepare and Post tools may also change the image's file format (a way of a media object being identified as to a "type" or "kind" of media), change the quality setting of the image, crop the image or change the aspect ratio, add text or annotations, encode or combine (including stitching) the media object, or enhance the media object by changing image values, for example, relating to contrast or saturation. This intelligence may be executed in a manner that is transparent to the end user. This transparency allows the end user to submit media to the Prepare and Post tools "as is," since the tools will automatically prepare it to meet the requirements of the second location. Note that, although image submission may involve client-side processing, image processing is not required.

The Prepare and Post tools are available for customers to integrate into their own web pages. The Prepare and Post tools are easily integrated into web sites (customers) to allow those sites to accept media objects from web site visitors (users). Appendix A is a generic HTML HostTemplate illustrating how Prepare and Post components are integrated into a web page. The HTML template file (which is a complete working example) contains instructions and a few small code snippets that the customer pastes into the web page. Integrating the Prepare and Post components requires an Initialization Section, a Configuration Section, an ImageWell (media object identifier) Section, a Submission Section and an ImageUpload Control Section. To include the Prepare and Post tools media object identifiers on a web page, the customer cuts and pastes code snippets for these sections from the template into the web page.

The Initialization Section consists of a few lines of JavaScript code that will download all of the needed Prepare and Post submission components.

The Configuration Section overrides various configurable default settings that the customer can control. In the Configuration Section, the media object identifier component is sized and configured to perform any preprocessing of the image that may be desired prior to upload. Configurable parameters include both fixed values for all submissions (per submission values) and fixed values for all images within a submission (per image values), as will be explained presently.

Fixed values for all submissions include DefaultImageWidth and DefaultImageHeight, as well as include DefaultControlWidth and DefaultControlHeight. The former specify the default width and height of the images after they have been compressed for transmission. The latter specify the default width and height of all media object identifiers. To create media object identifiers having different sizes, the customer specifies the desired size when creating the media object identifier. Another fixed value for all submissions is Quality. This determines the quality level of the images after they have been compressed for transmission (0 is the lowest quality/highest compression and 100 is the highest quality/lowest compression).

Fixed values for all media objects within a submission include Key1 and Key2. Key1 is the primary value that determines the filename of the resulting image file and, consequently, its URL. It is important that each submitted

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image have a unique name to prevent one image from overwriting another. Key2 is an optional secondary key that is appended to Key1 before the image's filename and URL are created. While default values for Key1 and Key2 can be specified in the configuration section, more likely this value will be supplied from a field in the web form. If the web page form contains a control named "Key1," then its value will be used for this key. For example, the field Key1 might be labeled as "MLS Number" on the web page. Similarly, the field Key2 might be labeled "Zip Code" on the web page. A sequence number is appended to the Key1/Key2 combination. When there are multiple media object identifiers on a page, this will ensure that each image has a unique key.

All media object identifiers on a web page must be contained within an HTML form. A single line of JavaScript code is inserted into the web page (within the HTML form) in each place where a media object identifier is desired. The Media object identifier Section can specify the width and height for each media object identifier. If the width and height are omitted, then the default width and height from the Configuration Section are used.

The Submission Code Section contains HTML code that creates the button that submits both the images to the second locations and the form to the customer's server. Within the Submission Code Section, an HTML "href" parameter is required for the Send Button that causes the images to be sent. After the images have been sent, the web page form will be submitted in the standard manner. The form must define two hidden fields named "url" and imagecount." The imagecount field will contain the number of images actually transmitted. In an exemplary embodiment, the URL for images 2 through "n" are generated by replacing the initial sequence number at the end of the returned URL with the desired image number.

The ImageUpload Control Section holds a small piece of JavaScript code that is placed at the very end of the body section of the web page. This code creates the non-visible Image Upload control, or media sender, that performs the transfer of images from the user's machine to the second location.

The Prepare and Post components support multiple browsers and dynamically adjust their behavior according to the type of browser that is currently running. For example, under supported versions of Microsoft's browsers, media object identifiers are implemented as ActiveX controls, while under supported Netscape browsers, media object identifiers are implemented as Java Applets. This multiple browser support is completely automatic.

FIGS. 3 and 4 present further details of the media object identifier and media sender components, respectively.

From the foregoing description, it will be appreciated that the present media submission tool, besides offering convenience to the end user, offers convenience and flexibility to technology partners. In particular, web page integration is designed to facilitate automatic server-side integration of media content.

It will be apparent to those of ordinary skill in the art that the present invention can be embodied in other specific forms without departing from the spirit or essential character thereof. The presently disclosed embodiments are therefore considered in all respects to be illustrative and not restrictive. The scope of the invention is indicated by the appended claims rather than the foregoing description, and all changes which come within the meaning and range of equivalents thereof are intended to be embraced therein.

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## APPENDIX A

HostTemplate generic.htm

```

<HTML>
<HEAD>
<!--***** Begin Initialization Section -->
<!--***** This section of code must appear at -->
<!--***** the beginning of the <HEAD> section of -->
<!--***** your web page. Copy this code and -->
<!--***** paste it directly into your web page. -->
<SCRIPT type="text/javascript" src="http://157.22.134.49/company/pwtcomponents.js"> </SCRIPT>
<SCRIPT type="text/javascript" src="http://157.22.134.49/company/company.js"> </SCRIPT>
<!--***** End Initialization Section -->
</HEAD>
<BODY>
<!--***** Begin Configuration Section -->
<!--***** This section of code must appear -->
<!--***** anywhere after the initialization -->
<!--***** section (above), and before the -->
<!--***** the <FORM> that contains the image -->
<!--***** wells. -->
<!--***** -->
<!--***** This section defines data values -->
<!--***** needed by the image wells. You can -->
<!--***** modify these values to suit -->
<!--***** your needs. -->
<SCRIPT Language="Javascript">
PWT.Key1 = "name-your-image here"; // If the <FORM> contains fields named 'Key1'
PWT.Key2 = " "; // & 'Key2' their values will be used.
PWT.Quality = 93;
PWT.DefaultImageWidth = 640;
PWT.DefaultImageHeight = 480;
PWT.DefaultControlWidth = 326; // Includes a 3 pixel border
PWT.DefaultControlHeight = 246; // Include a 3 pixel border
</SCRIPT>
<!--***** End Configuration Section -->
<FORM>
This sample displays a working image well.
<BR>
<!--***** Begin ImageWell Section -->
<!--***** This code creates an image well on -->
<!--***** the web page. While this template -->
<!--***** only contains a single image well, -->
<!--***** you can use as many as you like. -->
<!--***** Copy this code into your web page -->
<!--***** anywhere within your <FORM> where -->
<!--***** you want an image well to appear. -->
<SCRIPT Language="Javascript">
PWT.addimagecontrol( ); // or "PWT.addimagecontrol(640,480);" to override
// the default width and height.
</SCRIPT>
<!--***** End ImageWell Section -->
<BR>
This text is after the image well.
<P>
<!--***** Begin Submission Code Section -->
<!--***** You can use any type of button you -->
<!--***** wish, but rather than it being a -->
<!--***** standard SUBMIT button, it must -->
<!--***** instead contain the parameter: -->
<!--***** -->
<!--***** onclick="PWT.Submit( )" -->
<!--***** -->
<!--***** (as shown in the example below). -->
<!--***** After the images have been sent, -->
<!--***** your web page FORM will be submitted -->
<!--***** in the standard manner. -->
<!--***** -->
<!--***** Your FORM must define two hidden -->
<!--***** fields named "url" & "imagecount" -->
<!--***** (see examples below). The "url" -->
<!--***** field will be populated with the -->
<!--***** resulting URL of the first (or only) -->
<!--***** image submitted, and the "imagecount" -->
<!--***** field will contain the number of -->
<!--***** images actually transmitted. The URL -->
<!--***** for images 2 thru n can be generated -->
<!--***** by replacing the initial sequence -->
<!--***** number (which will always be "1") -->
<!--***** at the end of the returned URL with -->

```

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## APPENDIX A-continued

HostTemplate generic.htm

```

-->
<!--**** the desired image number.          -->
<INPUT type="hidden" name="url">
<INPUT type="hidden" name="imagecount">
<INPUT type="button" value="Submit Images" onclick="PWT.Submit( )">
</FORM>
<!--***** End Submission Code Section -->
<!--***** Begin ImageUpload Control Section --->
<!--**** This section of code must appear at          -->
<!--**** the end of the <BODY> section of          -->
<!--**** your web page. Copy this code and          -->
<!--**** paste it directly into your web page.      -->
<SCRIPT Language="Javascript">
PWT.adduploadcontrol( );
</SCRIPT>
<!--***** End ImageUpload Control Section --->
</BODY>
</HTML>

```

What is claimed is:

1. A method comprising the steps of:
  - accessing at least one media object identifier, the media object identifier being embedded within a third-party web site, the media object identifier including a graphical user interface for acquiring media objects;
  - associating a media object with the media object identifier; and
  - pre-processing the media object by the media object identifier for the requirements of the third-party web site, the pre-processing being done without additional user selection of the pre-processing.
2. The method of claim 1 wherein the pre-processing includes one of the following steps:
  - reducing the file size of the media object,
  - compressing the media object for purposes of transportation,
  - changing the file format of the media object,
  - changing the aspect ratio or otherwise cropping the media object,
  - adding text or other annotation to the media object,
  - encoding or otherwise converting the media object,
  - processing the media object in a manner that completely fills the media object identifier or maintains the aspect ratio of the media object within the media object identifier,
  - changing the orientation or otherwise rotating the media object,
  - combining (including stitching) of multiple media objects, or
  - enhancing the image by changing its contrast or saturation values.
3. The methods of claims 1 or 2 wherein the media object is associated with the media object identifier by dragging a visual representation of the media object to the graphical user interface of the media object identifier.
4. The methods of claims 1 or 2 wherein the media object is associated with the media object identifier by browsing and selecting files.
5. The methods of claims 1 or 2 wherein more than one media object is associated or processed simultaneously.
6. The methods of claims 1 or 2 wherein more than one media object identifier is generated dynamically or generated from pre-set instructions.
7. The method of claim 1 wherein the pre-processing includes reducing the size of the media object.
8. The method of claim 1 wherein the pre-processing includes modifying the format of the media object.
9. The method of claim 1 wherein the media object identifier allows display of the media object in context on the web page.
10. The method of claim 1 wherein the media object is a digital image.
11. The method of claim 1, wherein the media object identifier is configurable to control the pre-processing.
12. The method of claim 11, wherein the media object identifier is configurable by operators of the third party web site to control the pre-processing.
13. The method of claim 1, wherein requirements relate to presentation requirements of the third party web site.
14. The method of claim 1, wherein the pre-processed media object is uploaded to a remote server which enables the media object to be displayed on the web site.
15. A method comprising the steps of:
  - accessing a web site containing a media object identifier, the media object identifier including a graphical user interface for acquiring media objects;
  - associating a media object with the media object identifier; and
  - pre-processing the media object by the media object identifier for the requirements of a web site, the pre-processing including checking a file size of the media object and if the file size of the media object is larger than a predetermined maximum file size reducing the file size of the media object, the pre-processing being done without user selection of the pre-processing.
16. The method of claim 15 wherein the pre-processing further includes one of the following steps:
  - compressing the media object for purposes of transportation,
  - changing the file format of the media object,
  - changing the aspect ratio or otherwise cropping the media object,
  - adding text or other annotation to the media object,
  - encoding or otherwise converting the media object,
  - processing the media object in a manner that completely fills the media object identifier or maintains the aspect ratio of the media object within the media object identifier,



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changing the orientation or otherwise rotating the media object,

Combining (including stitching) of multiple media objects, or

Enhancing the image by changing its contrast or saturation values.

17. The method of claim 15 wherein the media object is associated with the media object identifier by dragging a visual representation of the media object to the graphical user interface of the media object identifier.

18. The method of claim 15 wherein the media object is associated with the media object identifier by browsing and selecting files.

19. The method of claim 15 wherein more than one media object is associated or processed simultaneously.

20. The method of claim 15 wherein more than one media object identifier is generated dynamically or generated from pre-set instructions.

21. The method of claim 15 wherein the media object identifier allows display of the media object in context on the web page.

22. The method of claim 15 wherein the media object identifier is embedded in the web site.

23. The method of claim 15 wherein the media object is a digital image.

24. The method of claim 15, wherein the media object identifier is configurable to control the pre-processing.

25. The method of claim 24, wherein the media object identifier is configurable by operators of the web site to control the pre-processing.

26. The method of claim 15, wherein requirements relate to presentation requirements of the web site.

27. The method of claim 15, wherein the pre-uploaded processed media object is uploaded to a remote server which enables the media object to be displayed on the web site.

28. A computer readable medium containing a program adapted to implement the method of:

associating a media object with a media object identifier, the media object identifier being embedded within a third-party web site, the media object identifier including a graphical user interface for acquiring media objects; and

pre-processing the media object by the media object identifier for the requirements of the third-party web site, the pre-processing being done without user selection of the pre-processing.

29. The computer readable medium containing a program of claim 28 wherein the pre-processing includes one of the following steps:

reducing the file size of the media object,

compressing the media object for purposes of transportation,

changing the file format of the media object,

changing the aspect ratio or otherwise cropping the media object,

adding text or other annotation to the media object,

encoding or otherwise converting the media object,

processing the media object in a manner that completely fills the media object identifier or maintains the aspect ratio of the media object within the media object identifier,

changing the orientation or otherwise rotating the media object,

combining (including stitching) of multiple media objects, or

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enhancing the image by changing its contrast or saturation values.

30. The computer readable medium containing a program of claim 28 wherein more than one media object identifier is generated dynamically or generated from pre-set instructions.

31. The computer readable medium containing a program of claim 28 wherein the pre-processing includes reducing the size of the media object.

32. The computer readable medium containing a program of claim 28 wherein the pre-processing includes modifying the format of the media object.

33. The computer readable medium containing a program of claim 28 wherein the media object is a digital image.

34. The computer readable medium containing a program of claim 28, wherein the media object identifier is configurable to control the pre-processing.

35. The computer readable medium containing a program of claim 34, wherein the media object identifier is configurable by operators of the third party web site to control the pre-processing.

36. The computer readable medium containing a program of claim 28, wherein requirements relate to presentation requirements of the third party web site.

37. A computer readable medium containing a program adapted to implement the method of:

associating a media object with a media object identifier at a web site, the media object identifier including a graphical user interface for acquiring media objects; and

pre-processing the media object by the media object identifier for the requirements of a web site, the pre-processing including checking a file size of the media object and if the file size of the media object is larger than a predetermined maximum file size reducing the file size of the media object, the pre-processing being done without user selection of the pre-processing.

38. The computer readable medium containing a program of claim 37 wherein the preprocessing further includes one of the following steps:

compressing the media object for purposes of transportation,

changing the file format of the media object,

changing the aspect ratio or otherwise cropping the media object,

adding text or other annotation to the media object,

encoding or otherwise converting the media object,

processing the media object in a manner that completely fills the media object identifier or maintains the aspect ratio of the media object within the media object identifier,

changing the orientation or otherwise rotating the media object,

combining (including stitching) of multiple media objects, or

enhancing the image by changing its contrast or saturation values.

39. The computer readable medium containing a program of claim 37 wherein more than one media object identifier is generated dynamically or generated from pre-set instructions.

40. The computer readable medium containing a program of claim 37 wherein the media object identifier is embedded in the web site.

41. The computer readable medium containing a program of claim 37 wherein the media object is a digital image.

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42. The computer readable medium containing a program of claim 37, which the media object identifier is configurable to control the pre-processing.

43. The computer readable medium containing a program of claim 42, wherein the media object identifier is configurable by operators of the web site to control the pre-processing.

44. The computer readable medium containing a program of claim 37, wherein requirements relate to presentation requirements of the web site.

45. A method comprising:

acquiring a media object with a web page displayed at a local computer;

pre-processing the media object at the local computer without user selection of the pre-processing, wherein the web page contains parameters used to control the pre-processing; and

uploading the pre-processed media object from the local computer to a remote server.

46. The method of claim 45, wherein the web page includes an embedded graphical user interface for acquiring media objects.

47. The method of claim 46, wherein the graphical user interface embedded in the web page is positioned within a rectangular region of the web page display.

48. The method of claim 46, wherein the media object is acquired by a user dragging and dropping the media object into the graphical user interface.

49. The method of claim 46, wherein the graphical user interface can be used to select media objects from a file system of the local computer.

50. The method of claim 45, wherein the web page includes code for acquiring the media object.

51. The method of claim 50, wherein the code includes media object identifier.

52. The method of claim 51, wherein the media object identifier is an active X or Java applet component.

53. The method of claim 45, wherein the remote server enables the media object to be displayed in a destination web site.

54. The method of claim 45, wherein the pre-processing includes changing a file type of media object.

55. The method of claim 45, wherein pre-processing comprises resizing the media object.

56. The method of claim 45, wherein the local computer displays the web page using a browser.

57. The method of claim 45, wherein the media object is a digital image.

58. The method of claim 45, wherein the uploading is done after the user selects a submit button displayed on the web page.

59. The method of claim 58, wherein the pre-processing occurs after the user selects the submit button but before the uploading.

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60. A computer readable medium containing a program adapted to implement a method of:

acquiring a media object with a web page displayed at a local computer;

pre-processing the media object at the local computer without user selection of the pre-processing, wherein the web page contains parameters used to control the pre-processing; and

uploading the pre-processed media object from the local computer to a remote server.

61. The computer readable medium containing a program of claim 60, wherein the web page includes an embedded graphical user interface for acquiring media objects.

62. The computer readable medium containing a program of claim 61, wherein the graphical user interface embedded in the web page is positioned within a rectangular region of the web page display.

63. The computer readable medium containing a program of claim 61, wherein the media object is acquired by a user dragging and dropping the media object into the graphical user interface.

64. The computer readable medium containing a program of claim 61, wherein the graphical user interface can be used to select media objects from a file system of the local computer.

65. The computer readable medium containing a program of claim 60, wherein the web page includes code for acquiring the media object.

66. The computer readable medium containing a program of claim 65, wherein the code includes a media object identifier.

67. The computer readable medium containing a program of claim 66, wherein the media object identifier is an active X or Java applet component.

68. The computer readable medium containing a program of claim 60, wherein the remote server enables the media object to be displayed in a destination web site.

69. The computer readable medium containing a program of claim 60, wherein the pre-processing includes changing a file type of media object.

70. The computer readable medium containing a program of claim 60, wherein pre-processing comprises resizing the media object.

71. The computer readable medium containing a program of claim 60, wherein the local computer displays the web page using a browser.

72. The computer readable medium containing a program of claim 60, wherein the media object is a digital image.

73. The computer readable medium containing a program of claim 60, wherein the uploading is done after the user selects a submit button displayed on the web page.

74. The computer readable medium containing a program of claim 73, wherein the pre-processing occurs after the user selects the submit button but before the uploading.

\* \* \* \* \*

# Exhibit B

(12) **United States Patent**  
**Wood et al.**

(10) **Patent No.:** **US 7,765,482 B2**  
(45) **Date of Patent:** **Jul. 27, 2010**

(54) **WEB-BASED MEDIA SUBMISSION TOOL**

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(57) **ABSTRACT**

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(51) **Int. Cl.**  
**G06F 3/00** (2006.01)

(52) **U.S. Cl.** ..... **715/744**; 715/748; 715/769;  
709/201; 709/219

(58) **Field of Classification Search** ..... 715/744,  
715/748, 769.704; 709/201, 219  
See application file for complete search history.

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The present invention, generally speaking, provides an improved web-based media submission tool. As with some existing tools, operation of the tool is drag and drop or the user can “click” to browse a directory to select media objects. Unlike existing tools, the tool provides the user an opportunity to confirm the submission, for example by generating a thumbnail image of an image file that has been dragged and dropped. Batch submission is provided for in which a user drags and drops a plurality of images or other media objects. Submission from a web page to a web page is also provided for. The submission tool is configurable to perform a variable amount of intelligent preprocessing on media objects prior to upload. In the case of digital images, the tool can perform sizing and formatting, for example. Information capture is performed with information being uploaded together with the media objects. In an exemplary embodiment, information capture is both user-transparent (e.g., user ID and/or password) and user-visible (e.g., the user can provide captions for media objects). The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases.

**51 Claims, 5 Drawing Sheets**

Picture? PIC Digital Image Processing by PictureWorks	<input type="checkbox"/> (\$25 charge) (optional) <b>Adding a photo of your item</b> Get better exposure for your items by including a picture. Its easy! Just locate the folder on your computer containing your photos, and then drag a photo into the box below. <div style="border: 1px solid black; width: 150px; height: 100px; margin: 10px auto; text-align: center;">             Click Here to Select Images         </div>
SurroundView? Digital Image Processing by PictureWorks	<input type="checkbox"/> (\$2.00 charge) (optional) <b>Adding a SurroundView</b> Really show off your item. Add a SurroundView. Its easy! Just locate the folder on your computer containing your photos, and then drag up to six photos into the boxes below. The photos will be combined into an animated presentation. <div style="display: flex; justify-content: space-around; margin-top: 10px;"> <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center;">             Click Here to Select Images         </div> <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center;">             Click Here to Select Images         </div> <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center;">             Click Here to Select Images         </div> <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center;">             Click Here to Select Images         </div> <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center;">             Click Here to Select Images         </div> <div style="border: 1px solid black; width: 40px; height: 40px; text-align: center;">             Click Here to Select Images         </div> </div>

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<b>Homes</b> <b>Realtor Services</b>		<a href="#">Getting Started</a> <a href="#">Send Photos</a> <a href="#">Homes</a> <a href="#">Financing</a> <a href="#">Offer &amp; Closing</a> <a href="#">Help</a>	
<b>Today's Rates</b> 30-Year Fixed    6.75% 15-Year Fixed    6.45% 1-Year Adjustable    5.6% *National average rates <a href="#">Find a Loan</a> <a href="#">Rate News</a>		<b>Adding Photos to your listings</b> Get better exposure for your listings by including some pictures of the property. Its easy! Just locate the folder on your computer containing your photos, and then drag them into the boxes below. Select a descriptive caption for each photo and then click the "Send Photos" button.	
<b>Highlights</b> Welcome to Homes! We hope you enjoy our site Please send us your <a href="#">feedback</a>		Frequently Asked Questions 	
<b>Home &amp; Rate Trackers</b> Receive free e-mail updates		<div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div> <div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div> <div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div> <div> <div>Drag Photo Here</div> <div>Front View ▾</div> </div>	
		<div>Listing Name</div> <div>Send Photos</div>	










FIG. 1

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<p>Picture? PIC</p> <p>Digital Image Processing by PictureWorks</p> 	<p><input type="checkbox"/> (\$0.25 charge) (optional)</p> <p><b>Adding a photo of your item</b></p> <p>Get better exposure for your items by including a picture. Its easy! Just locate the folder on your computer containing your photos, and then drag a photo into the box below.</p> <div style="border: 1px solid black; height: 150px; width: 100%; display: flex; align-items: center; justify-content: center;">  <div style="text-align: center;"> <p>Click Here to Select Images</p> </div> </div>
<p>SurroundView?</p> <p>Digital Image Processing by PictureWorks</p> 	<p><input type="checkbox"/> (\$2.00 charge) (optional)</p> <p><b>Adding a SurroundView</b></p> <p>Really show off your item. Add a SurroundView. Its easy! Just locate the folder on your computer containing your photos, and then drag up to six photos into the boxes below. The photos will be combined into an animated presentation.</p> <div style="display: flex; justify-content: space-around;"> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>Click Here to Select Images</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>Click Here to Select Images</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>Click Here to Select Images</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>Click Here to Select Images</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>Click Here to Select Images</p> </div> <div style="border: 1px solid black; padding: 5px; text-align: center;">  <p>Click Here to Select Images</p> </div> </div>

**FIG. 2**



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*PWImageControl Interface:*

<i>Interface Name</i>	<i>Type</i>	<i>Definition</i>	<i>Signature</i>
<i>ScaleImage</i>	<i>function</i>	<i>Scales an image in place or to a temporary file</i>	<i>ScaleImage( destinationType as String, changeDimensions as Integer, destWidth As Integer, destHeight As Integer, destQuality As Integer, '0-100 generateOutputFilename As Boolean ' create tempfile ) As String</i>
<i>DelTempFile</i>	<i>sub</i>	<i>Deletes temporary file created with ScaleImage</i>	<i>DelTempfile()</i>
<i>fileName</i>	<i>String property</i>	<i>Name of file shown in image well</i>	<i>fileName as String</i>
<i>imageName</i>	<i>String property</i>	<i>String value from image caption box</i>	<i>imageName as String</i>
<i>ClearImage</i>	<i>sub</i>	<i>Clears the image from the display and redisplay the logo and instructional text</i>	<i>ClearImage()</i>
<i>backgroundColor</i>	<i>String property</i>	<i>Hexideciaml RGB string value in format "FFFFFF" or "#FFFFFF"</i>	<i>backgroundColor as String</i>
<i>textColor</i>	<i>String property</i>	<i>Hexideciaml RGB string value in format "FFFFFF" or "#FFFFFF"</i>	<i>textColor as String</i>

**FIG. 3**

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*PWMediaSendControl Interface:*

<i>Interface Name</i>	<i>Type</i>	<i>Definition</i>	<i>Signature</i>
<i>SubmitMediaRequest</i>	<i>function</i>	<i>Transfers image and returns a status code. The action is successful if the return code is 0. If non-zero return code examine ServerRetString for a reason.</i>	<i>SubmitMediaRequest( UserID As String, 'partner UID Password As String, 'partner password ServiceType As String, "'HOST'" or "MIRROR" IndustryCode As Integer, 'e.g., 65=real estate MediaType As Integer, '1=image 2=video 3=sound OpCode As Integer, '1=Add, 2=Update, 3=Delete IPAddr As String, 'Destination IP address filename As String, 'File to send MediaGroupID As String, 'Used to build unique key MediaExtendedID As String, ' "" MediaSequenceNum As Integer, ' "" Desc1 As String, '255 chars Desc2 As String, '255 chars Desc3 As String preScaled as Integer) as Integer '255 chars</i>
<i>ServerRetString</i>	<i>String property</i>	<i>Return value from SubmitMediaRequest. If call made on HOST service, this string contains the IMG SRC url</i>	<i>ServerRetString as String</i>

**FIG. 4A**

Usage Example (VB Script)

tempFileName=DragImage1.ScaleImage(320, 240, 89, 1)

'scale the image object 'DragImage1'

result=UpHandler.SubmitMediaRequest(

UserID,

Password,

ServiceType,

0,

1,

1,

ipAddress,

tempFileName,

misNum.Value,

zipcode,

imageCount,

title,

desc2,

desc3,

1)

DragImage3.DelTempFile

'delete the temp file

FIG. 4

FIG. 4A
FIG. 4B

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**WEB-BASED MEDIA SUBMISSION TOOL**

This application is a continuation of U.S. application Ser. No. 09/357,836, filed Jul. 21, 1999 now U.S. Pat. No. 6,895,557. Priority to or reliance on all other applications is expressly disclaimed.

**BACKGROUND OF THE INVENTION****1. Field of the Invention**

The present invention relates to the handling, manipulation and processing of digital content and more particularly to the transportation and Internet publishing of digital content, particularly image media objects and rich media.

**2. State of the Art**

Much of the phenomenal success of the web is attributable to its graphical nature. Literally, a picture is worth a thousand words. The capture of digital images has become routine, using digital cameras and scanners. Nevertheless, although the handling of images by web-site creators has achieved a high degree of automation, for the average technology user (the "imaging civilian"), manipulating and sharing digital images over the Internet remains a cumbersome and daunting process. Piecemeal solutions that have been devised for handling digital images require a level of sophistication that is beyond that of the ordinary user. For example, transferring a digital image may require first downloading a FTP program, then installing it, then running it and connecting to an FTP server by typing the server name in the connection dialog, then navigating to the proper subdirectory, selecting the files to be uploaded, making sure that the program is in binary transfer mode, then sending the files. For the imaging civilian, such an involved process can be daunting to say the least.

Additionally, as technologies advance and casual users begin to experiment with other media objects, such as streaming video, 3D objects, slide shows, graphics, movies, and even sound files that accompany imaging data, the processes required to share these rich media types on the Internet becomes exponentially more complicated and prohibitive. As the realization of the Internet as an interactive, content rich medium becomes more and more a reality, the need for enabling the use and distribution of rich content and media on the Internet will become the gating factor to its long term success.

A broad-based solution to the foregoing problem requires a web-based media submission tool that allows for submission of media objects in a convenient, intuitive manner. A company named Caught in the Web, has attempted to create a broad-based media submission tool known as "ActiveUpload". ActiveUpload allows an arbitrary file to be dragged and dropped onto a web page control for upload to the web server. An ActiveUpload control allows users to, without leaving a web page, transfer files to a server (Internet or intranet) by selecting the files on the user's desktop that the user wants to transfer, then dragging them onto the web page. For example, a user, having visited a web page, can contribute pictures, documents, zip files, etc., without having to leave the web page and use an FTP program. Standard web authoring tools can be used to integrate ActiveUpload into web pages and change the behavior of the control.

Although Caught in the Web's ActiveUpload tool simplifies the user experience, it does little toward furthering "back-end" automation in the handling and distribution of media objects and has no built in "intelligence" to streamline the process of handling and transporting rich media objects from the front end.

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**SUMMARY OF THE INVENTION**

The present invention, generally speaking, provides an improved web-based media submission tool. As with some existing tools, operation of the tool is drag and drop or the user can "click" to browse a directory to select media objects. Unlike existing tools, the tool provides several unique and valuable functions. For example, the tool provides the user an opportunity to confirm the submission with a visual representation, for example by generating a thumbnail image of the rich media file that has been selected. Additionally, batch submission is provided to allow a user to drag and drop or select a plurality of images or other media objects. Submission from a web page to a web page is also provided for. Even more importantly, the submission tool is configurable to perform a variable amount of intelligent preprocessing on media objects prior to upload. In the case of digital images, the tool can perform sizing and formatting, for example. Information capture is performed with information being uploaded together with the media objects. In an exemplary embodiment, information capture is both user-transparent (e.g., user ID and/or password) and user-visible (e.g., the user can provide captions for media objects). The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases.

**BRIEF DESCRIPTION OF THE DRAWING**

The present invention may be further understood from the following description in conjunction with the appended drawing. In the drawing:

FIG. 1 is a diagram of an exemplary web page providing media object acquisition functions;

FIG. 2 is a diagram of another exemplary web page providing image acquisition functions;

FIG. 3 is a table pertaining to a first portion of the Prepare and Post component design; and

FIG. 4 is a table pertaining to a second portion of the Prepare and Post component design.

**DETAILED DESCRIPTION OF THE PREFERRED EMBODIMENTS**

The following describes the Prepare and Post™ tools, which prepares and submits media objects from inside a standard browser, referred to as the first location, to a second location or server. The media objects may be pictures (images), movies, videos, graphics, sound clips, etc. Although in the following description the submission of images is described in greatest detail, the same principles apply equally to media objects of all descriptions.

The Prepare and Post tools refers to browser-side components which together provide the ability to submit and transport media objects over the web to be stored and served. Using the Prepare and Post tools, end users can submit images in an immediate, intuitive manner. No technical sophistication is required. In particular, understanding technical terms such as JPEG, resolution, pixel, kilobyte, transfer protocol, IP address, FTP etc., is not required, since the Prepare and Post tools handles all of these tasks for the user. The benefits of the Prepare and Post tool are:

- a) to the image submitter, the ability to submit media objects to web pages immediately without needing to overcome technical obstacles;
- b) to the image submitter, the ability to submit media objects to web pages "as is" without making modifications to the media objects prior to sending.

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- c) to PictureWorks web site partner, access to a uniform, standardized, reliable and secure channel for media acquisition;
- d) to PictureWorks web site partner, access to contributed media "made to order", it meets their imaging specifications every time without human intervention;
- e) to PictureWorks web site partner, the ability to provide web site visitors with an easy, error free way to contribute media;
- f) to PictureWorks web site partner, access to contributed media in "real time" with no time delays.

The two primary components used in the Prepare and Post tools which carry out these functions are 1) the media object identifier and 2) the media sender.

In general, the media object identifier functions to provide a graphical interface for placing and associating a media object from a user's desktop onto a web page. The media sender carries out the function of transmitting media objects to a second location.

There are two ways media objects on the first location become associated with a media object identifier. The first is through a "drag and drop" behavior where the user clicks on a media object to select the one they want to submit. The media object is then dragged to the media object identifier. Releasing the mouse button associates the media object with the media object identifier. This behavior is allowed in web browsers that support drag and drop functionality. The Prepare and Post tools enable these browsers to accept media objects via drag and drop by providing the media object identifier as an ActiveX component.

The second way to associate a media object on the first location with the media object identifier is to click on the media object identifier to browse for media objects, then select the media object of choice. This method is made available for web browsers where the media object identifier needs to be a pure Java component. (Such "signed applet browsers" like Netscape Navigator) In this instance, the user may be asked to choose a media object in a similar manner as when choosing a file to be opened, either by graphical navigation or by specifying a path name. For example, a prompt associated with the media object identifier may be displayed prompting the user to click within the media object identifier. Clicking within the media object identifier brings up a browse dialog. Using the browse dialog, the user selects the desired media object, which is then placed in the media object identifier. The Prepare and Post tools will generate a visual representation or thumbnail of the media object, a feature currently not available in signed applet browsers.

Real estate is an example of a prime application of the Prepare and Post tools. "Curb appeal" is of great importance in the realty industry and can only be judged by "drive-bys," which are time-consuming and laborious, or by the availability of images. The Prepare and Post tools make real estate images readily available with a minimal amount of effort.

Referring to FIG. 1, an example is shown of a realty web page featuring the described Prepare and Post tools functionality. The user associates images with a media object identifier via the methods described above and selects appropriate captions for the images, e.g., living room, family room, etc. The captions may be typed in or selected from menus. The user also supplies identifying information, in this instance the MLS listing number. When the user clicks the Send button, the images are uploaded and processed immediately according to the configuration of the Prepare and Post tools.

The Prepare and Post tools also support a batch interface, allowing a plurality of images to be submitted simultaneously as in the case of a professional photographer, for example.

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The opportunity for user confirmation is again provided, e.g., by displaying a visual representation of the images in the batch.

If a mistake is made such that the wrong image is placed in an media object identifier, the correct image may be placed in the media object identifier. The correct image will replace the mistaken image. Alternatively, the user may remove an image from a media object identifier by right-clicking on the media object identifier and selecting Remove within a resulting pop-up menu.

Note that any number of media object identifiers may be provided on a web page and that the media object identifiers may be separate or grouped. This is evident in FIG. 2. The number of media object identifiers provided on a page can be pre-configured and fixed, allowing no user intervention, or the media object identifiers can be generated dynamically, allowing the user to determine how many media object identifiers they need for media submission. FIG. 2 shows a web page with various sizes of media object identifiers. If a media object identifier is separate, its image will be transmitted separately to the second location. If an media object identifier is part of a group, its image will be transmitted to the second location as part of a group of images that are stored together and cataloged together. Media object identifiers that are associated together as a group are noted as such in the web page interface and transparently in the media object identifier object code. Moreover, a web page may have multiple groups of media object identifiers, or "groups of groups."

The usefulness of images is greatly enhanced by capturing and identifying information about the images and submitting the identifying information with the images. Information may be image-specific, user-specific or both. The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases. Information capture may be overt or covert or both. This unique automatic database integration enables the images to be served with the proper web page data. Overt information capture relies upon the user to make menu selections of appropriate captions as illustrated in FIG. 1, or to make text entries within text fields, or both. The Prepare and Post tools are easily customized to accept menu selections and text fields for different applications. Covert information capture occurs by having the web browser automatically pass to the Prepare and Post tools known information such as a user ID or password used to access the web page.

A key differentiator of the Prepare and Post tools is the browser, or client-side intelligence built into the tools. This intelligence directly provides features including those already outlined such as associating data with media objects, generating a visual representation of the media objects and generating media object identifiers dynamically or in a pre-set manner. Other features are also provided via this intelligence, specifically, the ability to control the width and height of the media object identifier and the ability to preprocess the media objects in any number of ways prior to transporting to a second location. In the case of an image media object for example, the Prepare and Post tools may resize the image, (i.e., increase or decrease its size as defined by either physical dimensions, pixel count, or kilobytes). Compression, for example, is a type of sizing. The Prepare and Post tools may also change the image's file format (a way of a media object being identified as to a "type" or "kind" of media), change the quality setting of the image, crop the image or change the aspect ratio, add text or annotations, encode or combine (including stitching) the media object, or enhance the media object by changing image values, for example, relating to contrast or saturation. This intelligence may be executed in a

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manner that is transparent to the end user. This transparency allows the end user to submit media to the Prepare and Post tools “as is,” since the tools will automatically prepare it to meet the requirements of the second location. Note that, although image submission may involve client-side processing, image processing is not required.

The Prepare and Post tools are available for customers to integrate into their own web pages. The Prepare and Post tools are easily integrated into web sites (customers) to allow those sites to accept media objects from web site visitors (users). Appendix A is a generic HTML HostTemplate illustrating how Prepare and Post components are integrated into a web page. The HTML template file (which is a complete working example) contains instructions and a few small code snippets that the customer pastes into the web page. Integrating the Prepare and Post components requires an Initialization Section, a Configuration Section, an ImageWell (media object identifier) Section, a Submission Section and an ImageUpload Control Section. To include the Prepare and Post tools media object identifiers on a web page, the customer cuts and pastes code snippets for these sections from the template into the web page.

The Initialization Section consists of a few lines of JavaScript code that will download all of the needed Prepare and Post submission components.

The Configuration Section overrides various configurable default settings that the customer can control. In the Configuration Section, the media object identifier component is sized and configured to perform any preprocessing of the image that may be desired prior to upload. Configurable parameters include both fixed values for all submissions (per submission values) and fixed values for all images within a submission (per image values), as will be explained presently.

Fixed values for all submissions include DefaultImageWidth and DefaultImageHeight, as well as include DefaultControlWidth and DefaultControlHeight. The former specify the default width and height of the images after they have been compressed for transmission. The latter specify the default width and height of all media object identifiers. To create media object identifiers having different sizes, the customer specifies the desired size when creating the media object identifier. Another fixed value for all submissions is Quality. This determines the quality level of the images after they have been compressed for transmission (0 is the lowest quality/highest compression and 100 is the highest quality/lowest compression).

Fixed values for all media objects within a submission include Key1 and Key2. Key1 is the primary value that determines the filename of the resulting image file and, consequently, its URL. It is important that each submitted image have a unique name to prevent one image from overwriting another. Key2 is an optional secondary key that is appended to Key1 before the image’s filename and URL are created. While default values for Key1 and Key2 can be specified in the configuration section, more likely this value will be supplied from a field in the web form. If the web page form contains a control named “Key1,” then its value will be used

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for this key. For example, the field Key1 might be labeled as “MLS Number” on the web page. Similarly, the field Key2 might be labeled “Zip Code” on the web page. A sequence number is appended to the Key1/Key2 combination. When there are multiple media object identifiers on a page, this will ensure that each image has a unique key.

All media object identifiers on a web page must be contained within an HTML form. A single line of JavaScript code is inserted into the web page (within the HTML form) in each place where a media object identifier is desired. The Media object identifier Section can specify the width and height for each media object identifier. If the width and height are omitted, then the default width and height from the Configuration Section are used.

The Submission Code Section contains HTML code that creates the button that submits both the images to the second locations and the form to the customer’s server. Within the Submission Code Section, an HTML “href” parameter is required for the SendButton that causes the images to be sent.

After the images have been sent, the web page form will be submitted in the standard manner. The form must define two hidden fields named “url” and imagecount.” The imagecount field will contain the number of images actually transmitted. In an exemplary embodiment, the URL for images 2 through “n” are generated by replacing the initial sequence number at the end of the returned URL with the desired image number.

The ImageUpload Control Section holds a small piece of JavaScript code that is placed at the very end of the body section of the web page. This code creates the non-visible Image Upload control, or media sender, that performs the transfer of images from the user’s machine to the second location.

The Prepare and Post components support multiple browsers and dynamically adjust their behavior according to the type of browser that is currently running. For example, under supported versions of Microsoft’s browsers, media object identifiers are implemented as ActiveX controls, while under supported Netscape browsers, media object identifiers are implemented as Java Applets. This multiple browser support is completely automatic.

FIGS. 3 and 4 present further details of the media object identifier and media sender components, respectively.

From the foregoing description, it will be appreciated that the present media submission tool, besides offering convenience to the end user, offers convenience and flexibility to technology partners. In particular, web page integration is designed to facilitate automatic server-side integration of media content.

It will be apparent to those of ordinary skill in the art that the present invention can be embodied in other specific forms without departing from the spirit or essential character thereof. The presently disclosed embodiments are therefore considered in all respects to be illustrative and not restrictive. The scope of the invention is indicated by the appended claims rather than the foregoing description, and all changes which come within the meaning and range of equivalents thereof are intended to be embraced therein.

## APPENDIX A

HostTemplate generic.htm

```
<HTML>
<HEAD>
<!--***** Begin Initialization Section -->
<!--***** This section of code must appear at -->
<!--***** the beginning of the <HEAD> section of -->
```

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## APPENDIX A-continued

HostTemplate generic.htm

```

<!--***** your web page. Copy this code and -->
<!--***** paste it directly into your web page. -->
<SCRIPT type="text/javascript" src="http://157.22.134.49/company/pwtcomponents.js"></SCR
IPT>
<SCRIPT type="text/javascript" src="http://157.22.134.49/company/company.js"></SCRIPT>
<!--***** End Initialization Section -->
</HEAD>
<BODY>
<!--***** Begin Configuration Section -->
<!--***** This section of code must appear -->
<!--***** anywhere after the initialization -->
<!--***** section (above), and before the -->
<!--***** the <FORM> that contains the image -->
<!--***** wells. -->
<!--***** -->
<!--***** This section defines data values -->
<!--***** needed by the image wells. You can -->
<!--***** modify these values to suit -->
<!--***** your needs. -->
<SCRIPT Language="Javascript">
PWT.Key1 = "name-your-image-here"; // If the <FORM> contains fields named 'Key1'
PWT.Key2 = " "; // & 'Key2' their values will be used.
PWT.Quality = 93;
PWT.DefaultImageWidth = 640;
PWT.DefaultImageHeight = 480;
PWT.DefaultControlWidth = 326; // Includes a 3 pixel border
PWT.DefaultControlHeight = 246; // Include a 3 pixel border
</SCRIPT>
<!--***** End Configuration Section -->
<FORM>
This sample displays a working image well.
<BR>
<!--***** Begin ImageWell Section -->
<!--***** This code creates an image well on -->
<!--***** the web page. While this template -->
<!--***** only contains a single image well, -->
<!--***** you can use as many as you like. -->
<!--***** Copy this code into your web page -->
<!--***** anywhere within your <FORM> where -->
<!--***** you want an image well to appear. -->
<SCRIPT Language="Javascript">
PWT.addimagecontrol( ); // or "PWT.addimagecontrol(640,480);" to override
// the default width and height.
</SCRIPT>
<!--***** End ImageWell Section -->
<BR>
This text is after the image well.
<P>
<!--***** Begin Submission Code Section -->
<!--***** You can use any type of button you -->
<!--***** wish, but rather than it being a -->
<!--***** standard SUBMIT button, it must -->
<!--***** instead contain the parameter: -->
<!--***** -->
<!--***** onclick="PWT.Submit( )" -->
<!--***** -->
<!--***** (as shown in the example below). -->
<!--***** After the images have been sent, -->
<!--***** your web page FORM will be submitted -->
<!--***** in the standard manner. -->
<!--***** -->
<!--***** Your FORM must define two hidden -->
<!--***** fields named "url" & "imagecount" -->
<!--***** (see examples below). The "url" -->
<!--***** field will be populated with the -->
<!--***** resulting URL of the first (or only) -->
<!--***** image submitted, and the "imagecount" -->
<!--***** field will contain the number of -->
<!--***** images actually transmitted. The URL -->
<!--***** for images 2 thru n can be generated -->
<!--***** by replacing the initial sequence -->
<!--***** number (which will always be "1") -->
<!--***** at the end of the returned URL with -->
<-->
<!--***** the desired image number. -->
<INPUT type="hidden" name="url">
<INPUT type="hidden" name="imagecount">

```

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## APPENDIX A-continued

HostTemplate generic.htm

```

<INPUT type="button" value="Submit Images" onclick="PWT.Submit( )">
</FORM>
<!--***** End Submission Code Section -->
<!--***** Begin ImageUpload Control Section -->
<!--***** This section of code must appear at -->
<!--***** the end of the <BODY> section of -->
<!--***** your web page. Copy this code and -->
<!--***** paste it directly into your web page. -->
<SCRIPT Language="Javascript">
PWT.adduploadcontrol( );
</SCRIPT>
<!--***** End ImageUpload Control Section -->
</BODY>
</HTML>

```

What is claimed is:

1. A computer implemented method of pre-processing digital content in a client device for subsequent electronic publishing, comprising:
  - a. receiving pre-processing parameters from a remote device, said pre-processing parameters including a specification of an amount of digital content, said digital content including one or more of image content, video content, and audio content;
  - b. receiving an identification of a group of one or more items of digital content for transmission, a collective digital content of said group of one or more items of digital content being limited by said received pre-processing parameters;
  - c. pre-processing said identified group of one or more items of digital content using said received pre-processing parameters, said received pre-processing parameters controlling said client device in a placement of said identified group of one or more items of digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device; and
  - d. transmitting said pre-processed group of one or more items of digital content to said server device for subsequent publishing to said one or more devices that are remote from said server device and said client device.
2. The method of claim 1, wherein said receiving pre-processing parameters comprises receiving a specification of a number of items of digital content.
3. The method of claim 1, wherein said receiving pre-processing parameters comprises receiving a specification of a maximum number of items of digital content.
4. The method of claim 1, wherein said receiving an identification comprises receiving an identification of a plurality of items of digital content.
5. The method of claim 1, wherein said receiving an identification comprises receiving a click command at said client device.
6. The method of claim 1, wherein said pre-processing comprises reducing a file size or compressing said digital content.
7. The method of claim 1, wherein said pre-processing comprises changing a quality of said digital content.
8. The method of claim 1, further comprising transmitting identifying information for said pre-processed group of one or more items of digital content.
9. The method of claim 1, wherein said previously received pre-processing parameters enable said client device to place said identified group of one or more items of digital content into a specified form in preparation for publication to one or more devices on which said identified group of one or more items of digital content is to be electronically displayed.
10. The method of claim 1, wherein said pre-processing comprises resizing said digital content.
11. A computer implemented method of pre-processing media objects in a local device for subsequent transmission to a remote device, comprising:
  - a. receiving pre-processing parameters from a remote device, said pre-processing parameters including a specification of an amount of media data;
  - b. receiving an identification of a group of one or more media objects for transmission, a collective media data of said group of one or more media objects being limited by said received pre-processing parameters;
  - c. pre-processing said identified group of one or more media objects using said received pre-processing parameters, wherein said pre-processing comprises changing a file format of said media object; and
  - d. transmitting said pre-processed group of one or more media objects to the remote device.
12. A computer implemented method of pre-processing media objects in a local device for subsequent transmission to a remote device, comprising:
  - a. receiving pre-processing parameters from a remote device, said pre-processing parameters including a specification of an amount of media data;
  - b. receiving an identification of a group of one or more media objects for transmission, a collective media data of said group of one or more media objects being limited by said received pre-processing parameters;
  - c. pre-processing said identified group of one or more media objects using said received pre-processing parameters, wherein said pre-processing comprises encoding or otherwise converting said media object; and
  - d. transmitting said pre-processed group of one or more media objects to the remote device.
13. A computer implemented method of pre-processing digital content in a client device for subsequent electronic publishing, comprising:
  - a. receiving an identification of digital content, said digital content including one or more of image content, video content, and audio content;
  - b. pre-processing said identified digital content at said client device in accordance with one or more pre-processing parameters that are received from a device separate from said client device to produce pre-processed digital content, said one or more pre-processing parameters controlling said client device in a placement of said



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digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device;

- c. retrieving information that enables identification of a user, said retrieved information being available to said client device prior to said received identification; and
- d. transmitting a message from said client device to said server device for subsequent publishing device to said one or more devices that are remote from said server device and said client device, said transmitted message including said pre-processed digital content and said retrieved information.

14. The method of claim 13, wherein said pre-processing comprises reducing a file size or compressing said digital content.

15. The method of claim 13, wherein said pre-processing comprises changing a quality of said digital content.

16. The method of claim 13, wherein said pre-processing comprises pre-processing in accordance with one or more pre-processing parameters that have been previously downloaded to said client device.

17. The method of claim 13, wherein said pre-processing comprises pre-processing in accordance with one or more pre-processing parameters that have been downloaded to said client device prior to said identification.

18. The method of claim 13, wherein said pre-processing comprises pre-processing in accordance with one or more pre-processing parameters that have been stored in memory of said client device prior to said identification.

19. The method of claim 13, wherein said retrieving comprises retrieving a user identifier.

20. The method of claim 13, wherein said retrieving comprises retrieving a password.

21. The method of claim 13, wherein said retrieving comprises retrieving in a manner that is transparent to said user.

22. The method of claim 13, wherein said one or more pre-processing parameters enable said client device to place said digital content into a specified form in preparation for publication to one or more devices on which said digital content is to be electronically displayed.

23. The method of claim 13, wherein said pre-processing comprises resizing said digital content.

24. A computer implemented method of pre-processing media objects in a local device for subsequent transmission to a remote device, comprising:

- a. receiving an identification of a media object for transmission to said remote device;
- b. pre-processing said identified media object at said local device in accordance with one or more pre-processing parameters that are received from a device separate from said client device to produce a pre-processed media object, wherein said pre-processing comprises changing a file format of said media object;
- c. retrieving information that enables identification of a user, said retrieved information being available to said local device prior to said received identification; and
- d. transmitting a message from said local device to said remote device, said transmitted message including said pre-processed media object and said retrieved information.

25. A computer implemented method of pre-processing media objects in a local device for subsequent transmission to a remote device, comprising:

- a. receiving an identification of a media object for transmission to said remote device;
- b. pre-processing said identified media object at said local device in accordance with one or more pre-processing

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parameters that are received from a device separate from said client device to produce a pre-processed media object, wherein said pre-processing comprises encoding or otherwise converting said media object;

- c. retrieving information that enables identification of a user, said retrieved information being available to said local device prior to said received identification; and
- d. transmitting a message from said local device to said remote device, said transmitted message including said pre-processed media object and said retrieved information.

26. A computer implemented method of distributing digital content that is pre-processed by a client device, comprising:

- a. transmitting, to a client device, pre-processing parameters for digital content at said client device, said digital content including one or more of image content, video content, and audio content, said pre-processing parameters enabling said client device to place said digital content into a specified form in preparation for distribution to one or more devices that are remote from a server device and said client device;
- b. receiving, from said client device, a plurality of pre-processed digital content items that have been pre-processed using said pre-processing parameters;
- c. combining at least two of said plurality of pre-processed digital content items into a presentation; and
- d. distributing said presentation to one or more devices that are remote from said server device and said client device.

27. The method of claim 26, wherein said pre-processing parameters include a file format for said digital content items.

28. The method of claim 26, wherein said pre-processing parameters include a compression ratio for said digital content items.

29. The method of claim 26, wherein said pre-processing parameters include a media size or aspect ratio for said digital content items.

30. The method of claim 26, wherein said pre-processing parameters include a quality setting for said digital content items.

31. The method of claim 26, further comprising transmitting media object identifier code that enables identification of digital content items.

32. The method of claim 26, further comprising receiving information associated with said plurality of pre-processed digital content items.

33. The method of claim 26, wherein said presentation is animated.

34. The method of claim 26, wherein said pre-processing parameters enable said client device to place said digital content into a specified form in preparation for distribution to one or more devices on which said digital content is to be electronically displayed.

35. A computer implemented method for pre-processing digital content at a client device for subsequent electronic publishing, comprising:

- a. receiving a command that moves a graphical user interface element in a graphical user interface displayed at said client device, said received command enabling selection of digital content, said digital content including one or more of image content, video content, and audio content;
- b. pre-processing said selected digital content in accordance with one or more pre-processing parameters that are received from a remote device to produce pre-processed digital content, said one or more pre-processing parameters enabling said client device to place said digi-

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tal content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device;

- c. displaying a preview image of said selected digital content, said preview image having a reduced size relative to said selected digital content; and
- d. transmitting a message that includes said pre-processed digital content to said server device for subsequent publishing to said one or more devices that are remote from said server device and said client device.

**36.** A computer implemented method of publishing digital content that has been pre-processed by a client device, comprising:

- a. receiving, from said client device, a pre-processed group of one or more items of digital content that includes one or more of image content, video content, and audio content, wherein a collective digital content of said group of one or more items of digital content is limited by a specification of an amount of digital content, said group of one or more items of digital content being pre-processed in accordance with pre-processing parameters that were provided to said client device by a device separate from said client device, said pre-processing parameters controlling said client device in a placement of said identified group of one or more items of digital content into a specified form in preparation for distribution to one or more devices that are remote from a server device and said client device; and

- b. distributing, by said server device via an electronic network, information based on said pre-processed group of one or more items of digital content to one or more devices that are remote from said server device and said client device.

**37.** A computer implemented method of distributing digital content that has been pre-processed by a client device, comprising:

- a. receiving, from said client device, pre-processed digital content that includes one or more of image content, video content, and audio content, and information retrieved by said client device that enables identification of a user, said retrieved information being available to said client device prior to an identification of said digital content at said client device, wherein said digital content is pre-processed by said client device in accordance with pre-processing parameters that were provided to said client device by a device separate from said client device, said pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for distribution to one or more devices that are remote from a server device and said client device; and

- b. distributing, by said server device via an electronic network, information based on said pre-processed digital content to one or more devices that are remote from said server device and said client device.

**38.** A computer implemented method for pre-processing digital content in a client device for subsequent electronic distribution, comprising:

- a. initiating, by said client device, a transfer of digital content from said client device to a server device, said digital content including one or more of image content, video content, and audio content;

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- b. pre-processing said digital content at said client device in accordance with one or more pre-processing parameters, said one or more pre-processing parameters being provided to said client device from a device separate from said client device, said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device; and

- c. transmitting a message from said client device to said server device for subsequent distribution to said one or more devices that are remote from said server device and said client device, said transmitted message including said pre-processed digital content.

**39.** The method of claim **38**, wherein said pre-processing comprises pre-processing said digital content in accordance with pre-processing parameters that are provided to said client device by said server device.

**40.** The method of claim **38**, further comprising receiving an identification of said digital content for transmission prior to said pre-processing.

**41.** The method of claim **38**, wherein said pre-processing comprises reducing a file size or compressing said digital content.

**42.** The method of claim **38**, wherein said pre-processing comprises resizing said digital content.

**43.** The method of claim **38**, wherein said pre-processing comprises changing a file format of said digital content.

**44.** The method of claim **38**, wherein said transmitted message includes identifying information for said digital content.

**45.** The method of claim **44**, wherein said identifying information is retrieved from storage in said client device.

**46.** The method of claim **45**, wherein said identifying information includes a file name.

**47.** The method of claim **45**, wherein said identifying information includes location information.

**48.** The method of claim **47**, wherein said identifying information includes zip code information.

**49.** The method of claim **45**, wherein said identifying information includes user information.

**50.** The method of claim **45**, wherein said identifying information includes information describing said digital content.

**51.** A computer implemented method for distributing digital content that has been pre-processed by a client device, comprising:

- a. receiving, from said client device, digital content that has been pre-processed at said client device in accordance with one or more pre-processing parameters that have been provided to said client device from a device separate from said client device, said digital content including one or more of image content, video content, and audio content, said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for distribution to one or more devices that are remote from a server device and said client device; and

- b. publishing, by said server device via an electronic network, information based on said pre-processed digital content to one or more devices that are remote from said server device and said client device.

\* \* \* \* \*

# Exhibit C

Case 7:14-cv-00014-O Document 6-3



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(12) **United States Patent**  
**Wood et al.**

(10) **Patent No.:** **US 8,612,515 B2**  
(45) **Date of Patent:** **\*Dec. 17, 2013**

(54) **SYSTEM, METHOD AND APPARATUS FOR MEDIA SUBMISSION**

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**G06F 3/00** (2006.01)

(52) **U.S. Cl.**  
USPC ..... **709/203; 709/201; 709/219; 715/744; 715/748; 715/769; 707/999.102**

(58) **Field of Classification Search**  
USPC ..... **709/203, 201, 219; 707/999.101; 715/744, 748, 769**

See application file for complete search history.

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(57) **ABSTRACT**

The present invention, generally speaking, provides an improved web-based media submission tool. As with some existing tools, operation of the tool is drag and drop or the user can "click" to browse a directory to select media objects. Unlike existing tools, the tool provides the user an opportunity to confirm the submission, for example by generating a thumbnail image of an image file that has been dragged and dropped. Batch submission is provided for in which a user drags and drops a plurality of images or other media objects. Submission from a web page to a web page is also provided for. The submission tool is configurable to perform a variable amount of intelligent preprocessing on media objects prior to upload. In the case of digital images, the tool can perform sizing and formatting, for example. Information capture is performed with information being uploaded together with the media objects. In an exemplary embodiment, information capture is both user-transparent (e.g., user ID and/or password) and user-visible (e.g., the user can provide captions for media objects). The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases.

**53 Claims, 5 Drawing Sheets**

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**U.S. Patent**

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**Homes Real Estate Services**

Getting Started Send Photos Homes Financing Offer & Closing Help

**Today's Rates**

30-Year Fixed	6.75%
15-Year Fixed	6.45%
1-Year Adjustable	5.6%
*National average rates	

Find a Loan Rate News

**Highlights**

Welcome to Homes!

We hope you enjoy our site

Please send us your [feedback](#)

**Home & Rate Trackers**

Receive free e-mail updates

**Adding Photos to your listings**

Get better exposure for your listings by including some pictures of the property. Its easy! Just locate the folder on your computer containing your photos, and then drag them into the boxes below. Select a descriptive caption for each photo and then click the "Send Photos" button.

Frequently Asked Questions ⓘ

Drag Photo Here Front View

Drag Photo Here Front View

Drag Photo Here Front View

Listing Name

Send Photos










**FIG. 1**

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<p>Picture? PIC</p> <p>Digital Image Processing by PictureWorks</p> 	<p><input type="checkbox"/> (\$0.25 charge) (optional)</p> <p><b>Adding a photo of your item</b> Get better exposure for your items by including a picture. Its easy! Just locate the folder on your computer containing your photos, and then drag a photo into the box below.</p> <div data-bbox="520 972 829 1434" style="border: 1px solid black; height: 150px; display: flex; align-items: center; justify-content: center;">  <p>Click Here to Select Images</p> </div>
<p>SurroundView?</p> <p>Digital Image Processing by PictureWorks</p> 	<p><input type="checkbox"/> (\$2.00 charge) (optional)</p> <p><b>Adding a SurroundView</b> Really show off your item. Add a SurroundView. Its easy! Just locate the folder on your computer containing your photos, and then drag up to six photos into the boxes below. The photos will be combined into an animated presentation.</p> <div data-bbox="1032 594 1209 1434"> <div data-bbox="1032 1329 1209 1434" style="border: 1px solid black; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> <div data-bbox="1032 1182 1209 1287" style="border: 1px solid black; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> <div data-bbox="1032 1035 1209 1140" style="border: 1px solid black; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> <div data-bbox="1032 888 1209 993" style="border: 1px solid black; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> <div data-bbox="1032 741 1209 846" style="border: 1px solid black; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> <div data-bbox="1032 594 1209 699" style="border: 1px solid black; height: 40px; display: flex; align-items: center; justify-content: center;">  </div> </div>

**FIG. 2**

**U.S. Patent****Dec. 17, 2013****Sheet 3 of 5****US 8,612,515 B2****PWImageControl Interface:**

<i>Interface Name</i>	<i>Type</i>	<i>Definition</i>	<i>Signature</i>
<i>ScaleImage</i>	<i>function</i>	<i>Scales an image in place or to a temporary file</i>	<i>ScaleImage( destinationType as String, changeDimensions as Integer, destWidth As Integer, destHeight As Integer, destQuality As Integer, '0-100 generateOutputFilename As Boolean ' create tempfile ) As String</i>
<i>DelTempFile</i>	<i>sub</i>	<i>Deletes temporary file created with ScaleImage</i>	<i>DelTempFile()</i>
<i>fileName</i>	<i>String property</i>	<i>Name of file shown in image well</i>	<i>fileName as String</i>
<i>imageName</i>	<i>String property</i>	<i>String value from image caption box</i>	<i>imageName as String</i>
<i>ClearImage</i>	<i>sub</i>	<i>Clears the image from the display and redisplay the logo and instructional text</i>	<i>ClearImage()</i>
<i>backgroundColor</i>	<i>String property</i>	<i>Hexidecimal RGB string value in format "FFFFFF" or "#FFFFFF"</i>	<i>backgroundColor as String</i>
<i>textColor</i>	<i>String property</i>	<i>Hexidecimal RGB string value in format "FFFFFF" or "#FFFFFF"</i>	<i>textColor as String</i>

**FIG. 3**

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PWMediaSendControl Interface:

Interface Name	Type	Definition	Signature
SubmitMediaRequest	function	Transfers image and returns a status code. The action is successful if the return code is 0. If non-zero return code examine ServerRetString for a reason.	SubmitMediaRequest( UserID As String, 'partner UID Password As String, 'partner password ServiceType As String, ""HOST"" or "MIRROR" IndustryCode As Integer, 'e.g., 65=real estate MediaType As Integer, '1=image 2=video 3=sound OpCode As Integer, '1=Add, 2=Update, 3=Delete IPAddr As String, 'Destination IP address filename As String, 'File to send MediaGroupID As String, 'Used to build unique key MediaExtendedID As String, "" MediaSequenceNum As Integer, "" Desc1 As String, '255 chars Desc2 As String, '255 chars Desc3 As String preScaled as Integer) as Integer '255 chars
ServerRetString	String property	Return value from SubmitMediaRequest. If call made on HOST service, this string contains the IMG SRC url	ServerRetString as String

FIG. 4A

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Usage Example (VB Script)
tempFileName=DragImage1.ScaleImage(320, 240, 89, 1) 'scale the image object 'DragImage1'
result=UpHandler.SubmitMediaRequest(
    UserID,
    Password,
    ServiceType,
    0,
    1,
    1,
    ipAddress,
    tempFileName,
    misNum.Value,
    zipcode,
    imageCount,
    title,
    desc2,
    desc3,
    1)
DragImage3.DelTempFile 'delete the temp file
    
```

**FIG. 4**

FIG. 4A
FIG. 4B

**FIG. 4B**

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**SYSTEM, METHOD AND APPARATUS FOR  
MEDIA SUBMISSION**

This application is a continuation of non-provisional application Ser. No. 12/831,503, filed Jul. 7, 2010, which is a continuation of non-provisional application Ser. No. 10/961,720, filed Oct. 8, 2004 (now U.S. Pat. No. 7,765,482), which is a continuation of non-provisional application Ser. No. 09/357,836, filed Jul. 21, 1999 (now U.S. Pat. No. 6,895,557). Each of the applications and patents identified above is incorporated by reference herein, in its entirety, for all purposes.

**BACKGROUND OF THE INVENTION****1. Field of the Invention**

The present invention relates to the handling, manipulation and processing of digital content and more particularly to the transportation and Internet publishing of digital content, particularly image media objects and rich media.

**2. State of the Art**

Much of the phenomenal success of the web is attributable to its graphical nature. Literally, a picture is worth a thousand words. The capture of digital images has become routine, using digital cameras and scanners. Nevertheless, although the handling of images by website creators has achieved a high degree of automation, for the average technology user (the "imaging civilian"), manipulating and sharing digital images over the Internet remains a cumbersome and daunting process. Piecemeal solutions that have been devised for handling digital images require a level of sophistication that is beyond that of the ordinary user. For example, transferring a digital image may require first downloading a FTP program, then installing it, then running it and connecting to an FTP server by typing the server name in the connection dialog, then navigating to the proper subdirectory, selecting the files to be uploaded, making sure that the program is in binary transfer mode, then sending the files. For the imaging civilian, such an involved process can be daunting to say the least.

Additionally, as technologies advance and casual users begin to experiment with other media objects, such as streaming video, 3D objects, slide shows, graphics, movies, and even sound files that accompany imaging data, the processes required to share these rich media types on the Internet becomes exponentially more complicated and prohibitive. As the realization of the Internet as an interactive, content rich medium becomes more and more a reality, the need for enabling the use and distribution of rich content and media on the Internet will become the gating factor to its long term success.

A broad-based solution to the foregoing problem requires a web-based media submission tool that allows for submission of media objects in a convenient, intuitive manner. A company named Caught in the Web, has attempted to create a broad-based media submission tool known as "ActiveUpload". ActiveUpload allows an arbitrary file to be dragged and dropped onto a web page control for upload to the web server. An ActiveUpload control allows users to, without leaving a web page, transfer files to a server (Internet or intranet) by selecting the files on the user's desktop that the user wants to transfer, then dragging them onto the web page. For example, a user, having visited a web page, can contribute pictures, documents, zip files, etc., without having to leave the web page and use an FTP program. Standard web authoring tools can be used to integrate ActiveUpload into web pages and change the behavior of the control.

Although Caught in the Web's ActiveUpload tool simplifies the user experience, it does little toward furthering "back-

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end" automation in the handling and distribution of media objects and has no built in "intelligence" to streamline the process of handling and transporting rich media objects from the front end.

**SUMMARY**

The present invention, generally speaking, provides an improved web-based media submission tool. As with some existing tools, operation of the tool is drag and drop or the user can "click" to browse a directory to select media objects. Unlike existing tools, the tool provides several unique and valuable functions. For example, the tool provides the user an opportunity to confirm the submission with a visual representation, for example by generating a thumbnail image of the rich media file that has been selected. Additionally, batch submission is provided to allow a user to drag and drop or select a plurality of images or other media objects. Submission from a web page to a web page is also provided for. Even more importantly, the submission tool is configurable to perform a variable amount of intelligent preprocessing on media objects prior to upload. In the case of digital images, the tool can perform sizing and formatting, for example. Information capture is performed with information being uploaded together with the media objects. In an exemplary embodiment, information capture is both user-transparent (e.g., user ID and/or password) and user-visible (e.g., the user can provide captions for media objects). The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases.

**BRIEF DESCRIPTION OF THE DRAWINGS**

The present invention may be further understood from the following description in conjunction with the appended drawing. In the drawing:

FIG. 1 is a diagram of an exemplary web page providing media object acquisition functions;

FIG. 2 is a diagram of another exemplary web page providing image acquisition functions;

FIG. 3 is a table pertaining to a first portion of the Prepare and Post component design; and

FIGS. 4A and 4B illustrate a table pertaining to a second portion of the Prepare and Post component design.

**DETAILED DESCRIPTION**

The following describes the Prepare and Post™ tools, which prepares and submits media objects from inside a standard browser, referred to as the first location, to a second location or server. The media objects may be pictures (images), movies, videos, graphics, sound clips, etc. Although in the following description the submission of images is described in greatest detail, the same principles apply equally to media objects of all descriptions.

The Prepare and Post tools refers to browser-side components which together provide the ability to submit and transport media objects over the web to be stored and served. Using the Prepare and Post tools, end users can submit images in an immediate, intuitive manner. No technical sophistication is required. In particular, understanding technical terms such as JPEG, resolution, pixel, kilobyte, transfer protocol, IP address, FTP etc., is not required, since the Prepare and Post tools handles all of these tasks for the user. The benefits of the Prepare and Post tool are:



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a) to the image submitter, the ability to submit media objects to web pages immediately without needing to overcome technical obstacles;

b) to the image submitter, the ability to submit media objects to web pages "as is" without making modifications to the media objects prior to sending.

c) to PictureWorks web site partner, access to a uniform, standardized, reliable and secure channel for media acquisition;

d) to PictureWorks web site partner, access to contributed media "made to order", it meets their imaging specifications every time without human intervention;

e) to PictureWorks web site partner, the ability to provide web site visitors with an easy, error free way to contribute media;

f) to PictureWorks web site partner, access to contributed media in "real time" with no time delays.

The two primary components used in the Prepare and Post tools which carry out these functions are 1) the media object identifier and 2) the media sender.

In general, the media object identifier functions to provide a graphical interface for placing and associating a media object from a user's desktop onto a web page. The media sender carries out the function of transmitting media objects to a second location.

There are two ways media objects on the first location become associated with a media object identifier. The first is through a "drag and drop" behavior where the user clicks on a media object to select the one they want to submit. The media object is then dragged to the media object identifier. Releasing the mouse button associates the media object with the media object identifier. This behavior is allowed in web browsers that support drag and drop functionality. The Prepare and Post tools enable these browsers to accept media objects via drag and drop by providing the media object identifier as an ActiveX component.

The second way to associate a media object on the first location with the media object identifier is to click on the media object identifier to browse for media objects, then select the media object of choice. This method is made available for web browsers where the media object identifier needs to be a pure Java component. (Such "signed applet browsers" like Netscape Navigator) In this instance, the user may be asked to choose a media object in a similar manner as when choosing a file to be opened, either by graphical navigation or by specifying a path name. For example, a prompt associated with the media object identifier may be displayed prompting the user to click within the media object identifier. Clicking within the media object identifier brings up a browse dialog. Using the browse dialog, the user selects the desired media object, which is then placed in the media object identifier. The Prepare and Post tools will generate a visual representation or thumbnail of the media object, a feature currently not available in signed applet browsers.

Real estate is an example of a prime application of the Prepare and Post tools. "Curb appeal" is of great importance in the realty industry and can only be judged by "drive-bys," which are time-consuming and laborious, or by the availability of images. The Prepare and Post tools make real estate images readily available with a minimal amount of effort.

Referring to FIG. 1, an example is shown of a realty web page featuring the described Prepare and Post tools functionality. The user associates images with a media object identifier via the methods described above and selects appropriate captions for the images, e.g., living room, family room, etc. The captions may be typed in or selected from menus. The user also supplies identifying information, in this instance the

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MLS listing number. When the user clicks the Send button, the images are uploaded and processed immediately according to the configuration of the Prepare and Post tools.

The Prepare and Post tools also support a batch interface, allowing a plurality of images to be submitted simultaneously as in the case of a professional photographer, for example. The opportunity for user confirmation is again provided, e.g., by displaying a visual representation of the images in the batch.

If a mistake is made such that the wrong image is placed in a media object identifier, the correct image may be placed in the media object identifier. The correct image will replace the mistaken image. Alternatively, the user may remove an image from a media object identifier by right-clicking on the media object identifier and selecting Remove within a resulting pop-up menu.

Note that any number of media object identifiers may be provided on a web page and that the media object identifiers may be separate or grouped. This is evident in FIG. 2. The number of media object identifiers provided on a page can be pre-configured and fixed, allowing no user intervention, or the media object identifiers can be generated dynamically, allowing the user to determine how many media object identifiers they need for media submission. FIG. 2 shows a web page with various sizes of media object identifiers. If a media object identifier is separate, its image will be transmitted separately to the second location. If an media object identifier is part of a group, its image will be transmitted to the second location as part of a group of images that are stored together and cataloged together. Media object identifiers that are associated together as a group are noted as such in the web page interface and transparently in the media object identifier object code. Moreover, a web page may have multiple groups of media object identifiers, or "groups of groups."

The usefulness of images is greatly enhanced by capturing and identifying information about the images and submitting the identifying information with the images. Information may be image-specific, user-specific or both. The submission of information about the user and the media objects facilitates automatic integration of the media objects within existing databases. Information capture may be overt or covert or both. This unique automatic database integration enables the images to be served with the proper web page data. Overt information capture relies upon the user to make menu selections of appropriate captions as illustrated in FIG. 1, or to make text entries within text fields, or both. The Prepare and Post tools are easily customized to accept menu selections and text fields for different applications. Covert information capture occurs by having the web browser automatically pass to the Prepare and Post tools known information such as a user ID or password used to access the web page.

A key differentiator of the Prepare and Post tools is the browser, or client-side intelligence built into the tools. This intelligence directly provides features including those already outlined such as associating data with media objects, generating a visual representation of the media objects and generating media object identifiers dynamically or in a preset manner. Other features are also provided via this intelligence, specifically, the ability to control the width and height of the media object identifier and the ability to preprocess the media objects in any number of ways prior to transporting to a second location. In the case of an image media object for example, the Prepare and Post tools may resize the image, (i.e., increase or decrease its size as defined by either physical dimensions, pixel count, or kilobytes). Compression, for example, is a type of sizing. The Prepare and Post tools may also change the image's file format (a way of a media object

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being identified as to a “type” or “kind” of media), change the quality setting of the image, crop the image or change the aspect ratio, add text or annotations, encode or combine (including stitching) the media object, or enhance the media object by changing image values, for example, relating to contrast or saturation. This intelligence may be executed in a manner that is transparent to the end user. This transparency allows the end user to submit media to the Prepare and Post tools “as is,” since the tools will automatically prepare it to meet the requirements of the second location. Note that, although image submission may involve client-side processing, image processing is not required.

The Prepare and Post tools are available for customers to integrate into their own web pages. The Prepare and Post tools are easily integrated into web sites (customers) to allow those sites to accept media objects from web site visitors (users). Appendix A is a generic HTML HostTemplate illustrating how Prepare and Post components are integrated into a web page. The HTML template file (which is a complete working example) contains instructions and a few small code snippets that the customer pastes into the web page. Integrating the Prepare and Post components requires an Initialization Section, a Configuration Section, an ImageWell (media object identifier) Section, a Submission Section and an ImageUpload Control Section. To include the Prepare and Post tools media object identifiers on a web page, the customer cuts and pastes code snippets for these sections from the template into the web page.

The Initialization Section consists of a few lines of JavaScript code that will download all of the needed Prepare and Post submission components.

The Configuration Section overrides various configurable default settings that the customer can control. In the Configuration Section, the media object identifier component is sized and configured to perform any preprocessing of the image that may be desired prior to upload. Configurable parameters include both fixed values for all submissions (per submission values) and fixed values for all images within a submission (per image values), as will be explained presently.

Fixed values for all submissions include DefaultImageWidth and DefaultImageHeight, as well as include DefaultControlWidth and DefaultControlHeight. The former specify the default width and height of the images after they have been compressed for transmission. The latter specify the default width and height of all media object identifiers. To create media object identifiers having different sizes, the customer specifies the desired size when creating the media object identifier. Another fixed value for all submissions is Quality. This determines the quality level of the images after they have been compressed for transmission (0 is the lowest quality/highest compression and 100 is the highest quality/lowest compression).

Fixed values for all media objects within a submission include Key1 and Key2. Key1 is the primary value that determines the filename of the resulting image file and, consequently, its URL. It is important that each submitted image have a unique name to prevent one image from overwriting another. Key2 is an optional secondary key that is appended to Key1 before the image’s filename and URL are created. While default values for Key1 and Key2 can be specified in the configuration section, more likely this value will be supplied from a field in the web form. If the web page form contains a control named “Key1,” then its value will be used for this key. For example, the field Key1 might be labeled as “MLS Number” on the web page. Similarly, the field Key2 might be labeled “Zip Code” on the web page. A sequence number is appended to the Key1/Key2 combination. When

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there are multiple media object identifiers on a page, this will ensure that each image has a unique key.

All media object identifiers on a web page must be contained within an HTML form. A single line of JavaScript code is inserted into the web page (within the HTML form) in each place where a media object identifier is desired. The Media object identifier Section can specify the width and height for each media object identifier. If the width and height are omitted, then the default width and height from the Configuration Section are used.

The Submission Code Section contains HTML code that creates the button that submits both the images to the second locations and the form to the customer’s server. Within the Submission Code Section, an HTML “href” parameter is required for the SendButton that causes the images to be sent. After the images have been sent, the web page form will be submitted in the standard manner. The form must define two hidden fields named “url” and “imagecount.” The imagecount field will contain the number of images actually transmitted. In an exemplary embodiment, the URL for images 2 through “n” are generated by replacing the initial sequence number at the end of the returned URL with the desired image number.

The ImageUpload Control Section holds a small piece of JavaScript code that is placed at the very end of the body section of the web page. This code creates the non-visible Image Upload control, or media sender, that performs the transfer of images from the user’s machine to the second location.

The Prepare and Post components support multiple browsers and dynamically adjust their behavior according to the type of browser that is currently running. For example, under supported versions of Microsoft’s browsers, media object identifiers are implemented as ActiveX controls, while under supported Netscape browsers, media object identifiers are implemented as Java Applets. This multiple browser support is completely automatic.

FIGS. 3 and 4A-4B present further details of the media object identifier and media sender components, respectively.

From the foregoing description, it will be appreciated that the present media submission tool, besides offering convenience to the end user, offers convenience and flexibility to technology partners. In particular, web page integration is designed to facilitate automatic server-side integration of media content.

It will be apparent to those of ordinary skill in the art that the present invention can be embodied in other specific forms without departing from the spirit or essential character thereof. The presently disclosed embodiments are therefore considered in all respects to be illustrative and not restrictive. The scope of the invention is indicated by the appended claims rather than the foregoing description, and all changes which come within the meaning and range of equivalents thereof are intended to be embraced therein.

What is claimed is:

1. A method for pre-processing in a client device, comprising the following computer implemented steps:
  - transmitting information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier at a host server;
  - receiving an identification of one or more image files, video files or audio files to associate with said account;
  - receiving, by said client device, a confirmation of an intent to associate said one or more image files, video files or audio files with said account;
  - pre-processing said identified one or more image files, video files or audio files using pre-processing parameters received from a remote server, said received pre-

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processing parameters enabling said client device to pre-process said identified one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content, which is based on said pre-processed one or more image files, video files or audio files, to one or more devices separate from said client device; and

transmitting said pre-processed one or more image files, video files or audio files.

2. The method of claim 1, wherein said transmitting information comprises transmitting an identifier associated with a user and a password from said client device to said host server.

3. The method of claim 1, wherein said receiving an identification comprises receiving a selection of one or more image files, video files or audio files in a directory listing within a user interface.

4. The method of claim 1, wherein said receiving an identification comprises receiving a command that drags and drops one or more image files, video files or audio files in a user interface.

5. The method of claim 1, wherein said receiving an identification comprises receiving via a web browser user interface.

6. The method of claim 1, further comprising displaying a thumbnail preview of said identified one or more image files, video files or audio files.

7. The method of claim 1, wherein said pre-processing comprises pre-processing using pre-processing parameters that originate with said host server.

8. The method of claim 7, wherein said pre-processing comprises pre-processing using pre-processing parameters that are received in HTML code.

9. The method of claim 7, wherein said pre-processing comprises pre-processing using Java code or an ActiveX component.

10. The method of claim 1, wherein said pre-processing comprises reducing a file size or compressing said one or more image files, video files or audio files.

11. The method of claim 1, wherein said pre-processing comprises resizing said one or more image files, video files or audio files.

12. The method of claim 1, wherein said pre-processing comprises changing a file format of said one or more image files, video files or audio files.

13. The method of claim 1, wherein said pre-processing comprises changing a quality of said one or more image files, video files or audio files.

14. The method of claim 1, wherein said pre-processing comprises encoding or otherwise converting said one or more image files, video files or audio files.

15. The method of claim 1, wherein said transmitting comprises transmitting caption information for said one or more image files, video files or audio files.

16. The method of claim 1, wherein said transmitting comprises transmitting information that describes said one or more image files, video files or audio files.

17. The method of claim 1, wherein said transmitting comprises transmitting information associated with an individual.

18. The method of claim 1, wherein said transmitting comprises transmitting location information.

19. The method of claim 1, further comprising reporting a status of said transmission of said pre-processed one or more image files, video files or audio files.

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20. A client device for pre-processing, comprising:

a transmitter that transmits information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier at a host server;

a computer usable medium having computer readable program code means embodied therein for enabling a receipt of an identification of one or more image files, video files or audio files to associate with said account; and

a pre-processor that pre-processes said identified one or more image files, video files or audio files in preparation for transmission by said client device, said pre-processor using pre-processing parameters received from a remote server, said pre-processing parameters enabling said client device to pre-process said identified one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content, which is based on said pre-processed one or more image files, video files or audio files, to one or more devices separate from said client device.

21. A method for receiving one or more pre-processed image files, video files or audio files, comprising the following computer implemented steps:

receiving, from a client device, information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier;

transmitting pre-processing parameters to said client device, said pre-processing parameters enabling said client device to pre-process one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content to one or more devices separate from said client device;

receiving, from said client device, one or more image files, video files or audio files that have been pre-processed at said client device in accordance with said transmitted pre-processing parameters; and

storing said received pre-processed one or more image files, video files or audio files, said stored pre-processed one or more image files, video files or audio files used for subsequent transfer of content to said one or more devices separate from said client device.

22. A system for receiving one or more pre-processed image files, video files or audio files, comprising:

a receiver that receives, from a client device, information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier;

a transmitter that transmits pre-processing parameters to said client device, said pre-processing parameters enabling said client device to pre-process said one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content to one or more devices separate from said client device; and

a storage medium that stores one or more image files, video files or audio files received from said client device that have been pre-processed at said client device in accordance with said transmitted pre-processing parameters, said stored pre-processed one or more image files, video files or audio files used for subsequent transfer of content to said one or more devices separate from said client device.

23. A method for pre-processing in a client device, comprising the following computer implemented steps:

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transmitting information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier at a host server; receiving an identification of one or more image files, video files or audio files to associate with said account; receiving, by said client device, a confirmation of an intent to associate said one or more image files, video files or audio files with said account; pre-processing said identified one or more image files, video files or audio files using pre-processing parameters that have been loaded onto said client device by a device separate from said client device, said pre-processing parameters enabling said client device to pre-process said identified one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content, which is based on said pre-processed one or more image files, video files or audio files, to one or more devices separate from said client device; and transmitting said pre-processed one or more image files, video files or audio files.

24. The method of claim 23, wherein said pre-processing comprises pre-processing said identified one or more image files, video files or audio files using pre-processing parameters that are received from a server device.

25. The method of claim 23, further comprising receiving said pre-processing parameters from a transmission by said device that is separate from said client device.

26. The method of claim 23, wherein said transmitting information comprises transmitting an identifier associated with a user and a password from said client device to said host server.

27. The method of claim 23, wherein said receiving an identification comprises receiving a selection of one or more image files, video files or audio files in a listing within a user interface.

28. The method of claim 23, further comprising displaying a thumbnail preview of said identified one or more image files, video files or audio files.

29. The method of claim 23, wherein said pre-processing comprises reducing a file size or compressing said one or more image files, video files or audio files.

30. The method of claim 23, wherein said pre-processing comprises resizing said one or more image files, video files or audio files.

31. The method of claim 23, wherein said pre-processing comprises changing a file format of said one or more image files, video files or audio files.

32. The method of claim 23, wherein said pre-processing comprises changing a quality of said one or more image files, video files or audio files.

33. The method of claim 23, wherein said pre-processing comprises encoding or otherwise converting said one or more image files, video files or audio files.

34. The method of claim 23, wherein said transmitting comprises transmitting caption information for one or more image files, video files or audio files.

35. The method of claim 23, wherein said transmitting comprises transmitting information that describes one or more image files, video files or audio files.

36. The method of claim 23, wherein said transmitting comprises transmitting information associated with an individual.

37. The method of claim 23, wherein said transmitting comprises transmitting location information.

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38. The method of claim 23, further comprising reporting a status of said transmission of said pre-processed one or more image files, video files or audio files.

39. A client device for pre-processing, comprising:  
a transmitter that transmits information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier at a host server;  
a computer usable medium having computer readable program code means embodied therein for enabling a receipt of an identification of one or more image files, video files or audio files to associate with said account; and  
a pre-processor that pre-processes said identified one or more image files, video files or audio files in preparation for transmission by said client device, said pre-processor using pre-processing parameters that have been loaded onto said client device by a device separate from said client device, said pre-processing parameters enabling said client device to pre-process said identified one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content, which is based on said pre-processed one or more image files, video files or audio files, to one or more devices separate from said client device.

40. A method for receiving one or more pre-processed image files, video files or audio files, comprising the following computer implemented steps:  
receiving, from a client device, information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier;  
receiving, from said client device, one or more image files, video files or audio files that have been pre-processed at said client device in accordance with pre-processing parameters that have been loaded onto said client device by a device separate from said client device, said pre-processing parameters enabling said client device to pre-process said one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content to one or more devices separate from said client device; and  
storing said received pre-processed one or more image files, video files or audio files, said stored pre-processed one or more image files, video files or audio files used for subsequent transfer of content to said one or more devices separate from said client device.

41. A system for receiving one or more pre-processed image files, video files or audio files, comprising:  
a receiver that receives, from a client device, information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier; and  
a storage medium that stores one or more image files, video files or audio files received from said client device that have been pre-processed at said client device in accordance with pre-processing parameters that have been loaded onto said client device by a device separate from said client device, said pre-processing parameters enabling said client device to pre-process said one or more image files, video files or audio files in a manner specified by a distributing party for transfer of content to one or more devices separate from said client device, said stored pre-processed one or more image files, video files or audio files used for subsequent transfer of content to said one or more devices separate from said client device.

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42. The method of claim 1, wherein said transmitting comprises transmitting an IP address.

43. The method of claim 1, wherein said receiving an identification comprises receiving an identification of a plurality of image files, video files or audio files.

44. The method of claim 18, wherein said location information is associated with said one or more image files, video files or audio files.

45. The method of claim 44, wherein said location information includes a zip code related to said one or more image files, video files or audio files.

46. The method of claim 23, wherein said transmitting comprises transmitting an IP address.

47. The method of claim 23, wherein said receiving an identification comprises receiving an identification of a plurality of image files, video files or audio files.

48. The method of claim 37, wherein said location information is associated with said one or more image files, video files or audio files.

49. The method of claim 48, wherein said location information includes a zip code related to content of said one or more image files, video files or audio files.

50. A method for pre-processing in a client device, comprising the following computer implemented steps:

transmitting information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier at a host server; receiving an identification of a plurality of image files, video files or audio files to associate with said account; pre-processing said identified plurality of image files, video files or audio files using pre-processing parameters received from a remote server, said received pre-processing parameters enabling said client device to pre-process said identified plurality of image files, video

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files or audio files in a manner specified by a distributing party for transfer of content, which is based on said pre-processed plurality of image files, video files or audio files, to one or more devices separate from said client device; and

transmitting said pre-processed plurality of image files, video files or audio files.

51. The method of claim 50, further comprising displaying thumbnail previews of said plurality of image files, video files or audio files.

52. A method for pre-processing in a client device, comprising the following computer implemented steps:

transmitting information that enables access to an account that is associated with a user, said access to said account conditioned on a receipt of an identifier at a host server; receiving an identification of a plurality of image files, video files or audio files to associate with said account; pre-processing said identified plurality of image files, video files or audio files using pre-processing parameters that have been loaded onto said client device by a device separate from said client device, said pre-processing parameters enabling said client device to pre-process said identified plurality of image files, video files or audio files in a manner specified by a distributing party for transfer of content, which is based on said pre-processed plurality of image files, video files or audio files, to one or more devices separate from said client device; and

transmitting said pre-processed plurality of image files, video files or audio files.

53. The method of claim 52, further comprising displaying thumbnail previews of said plurality of image files, video files or audio files.

\* \* \* \* \*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION, HTC AMERICA,  
INC., LG ELECTRONICS INC., LG  
ELECTRONICS USA, INC., LG  
ELECTRONICS MOBILECOMM USA,  
INC., MOTOROLA MOBILITY LLC,  
APPLE INC., and TWITTER, INC.,

Defendants.

Case No. 7:14-cv-00014-0

**DEFENDANTS' MOTION TO TRANSFER  
TO THE NORTHERN DISTRICT OF CALIFORNIA**

Defendants HTC Corporation, HTC America, Inc., LG Electronics Inc., LG Electronics USA, Inc., LG Electronics MobileComm USA Inc., Motorola Mobility LLC, Apple Inc., and Twitter, Inc. (collectively, "Defendants") hereby file this Motion to Transfer to the Northern District of California. For the reasons given in Defendants' Brief, Defendants respectfully request that the Court grant Defendants' Motion in its entirety.

Dated: June 10, 2014

Respectfully submitted,

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**CERTIFICATE OF CONFERENCE**

I certify that on June 3, 2014, I, along with counsel for each Defendant, conferred with Ashley Moore, counsel for Plaintiff, regarding the relief requested in this Motion to Transfer to the Northern District of California and was informed that Plaintiff opposes the relief.

s/ David J. Silbert

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 10th day of June, 2014, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule 5.1(d). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

*s/ David J. Silbert*\_\_\_\_\_

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION, HTC AMERICA,  
INC., LG ELECTRONICS INC., LG  
ELECTRONICS USA, INC., LG  
ELECTRONICS MOBILECOMM USA,  
INC., MOTOROLA MOBILITY LLC,  
APPLE INC., and TWITTER, INC.,

Defendants.

Case Action No. 7:14-cv-00014-O

**[PROPOSED] ORDER GRANTING DEFENDANTS’  
MOTION TO TRANSFER TO THE NORTHERN DISTRICT OF CALIFORNIA**

Having considered the papers submitted by counsel, the applicable law, the relevant pleadings and papers on file in this action, and the arguments of counsel, the Court concludes that Defendants’ Motion to Transfer to the Northern District of California should be and is hereby GRANTED.

IT IS SO ORDERED.

Dated: \_\_\_\_\_, 2014

\_\_\_\_\_  
Hon. Reed O’Connor  
United States District Court Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 10th day of June, 2014, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule 5.1(d). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

/s/ David J. Silbert

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION, HTC AMERICA,  
INC., LG ELECTRONICS INC., LG  
ELECTRONICS USA, INC., LG  
ELECTRONICS MOBILECOMM USA,  
INC., MOTOROLA MOBILITY LLC,  
APPLE INC., and TWITTER, INC.,

Defendants.

Case No. 7:14-cv-00014-O

**DEFENDANTS' BRIEF IN SUPPORT OF THEIR MOTION TO TRANSFER TO THE  
NORTHERN DISTRICT OF CALIFORNIA**

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Pursuant to 28 U.S.C. § 1404(a), Defendants<sup>1</sup> jointly respectfully request that the Court transfer this case to the United States District Court for the Northern District of California, the locus of operative facts and a clearly more convenient venue for all parties and witnesses.

## **I. SUMMARY OF ARGUMENT**

Plaintiff filed a single complaint against application developer Twitter and four mobile device manufacturers and their affiliates, alleging infringement against Twitter because it “makes, uses, sells, imports, and/or offers applications, APIs, and/or functionality added to the native content sharing options for devices from co-defendants HTC Corp., HTC America, LGE Inc., LGE USA, LGE MobileComm, Motorola, and Apple”; and alleging infringement against the device makers based on each device’s messaging technology and use of “the integrated Twitter content upload functionality” and “MMS-to-Twitter functionality.”

The Northern District of California is a clearly more convenient venue for all five Defendants,<sup>2</sup> none of which has any relevant witnesses or documents in the Northern District of Texas. Twitter is headquartered in the Northern District of California, and all of its relevant evidence and witnesses are there; it has no meaningful presence in or connection with the Northern District of Texas.<sup>3</sup> Apple, too, is headquartered in the Northern District of California, and virtually all of its relevant documents and witnesses are there. Motorola keeps a large office in the Northern District of California that focuses on designing and finance of the mobile devices and digital-imaging technology accused in this case, so many of its relevant witnesses and documents are also in that District. The Northern District of California is also a more convenient

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<sup>1</sup> “Defendants” collectively refers to Twitter, Inc. (“Twitter”); Apple Inc. (“Apple”); HTC Corporation and HTC America, Inc.; LG Electronics, Inc. (“LGE Inc.”), LG Electronics USA, Inc. (“LGE USA”), and LG Electronics MobileComm USA, Inc. (“LGE MobileComm”); and Motorola Mobility LLC.

<sup>2</sup> For purposes of this motion, Defendants count the affiliated HTC defendants and the affiliated LGE defendants as one Defendant each, referred to as “HTC” and “LGE”.

<sup>3</sup> It is unclear how Summit 6 purports to overcome the bar against improper joinder under 35 U.S.C. § 299 to justify suing different Defendants here in the same case. If Summit 6 is targeting Twitter technology as an alleged point of commonality among all Defendants, then its case certainly should not proceed in a venue lacking any meaningful connection to Twitter.

venue for LGE, because LG MobileComm USA, the only LGE entity that imports and sells LGE's accused devices, is headquartered in San Diego and has offices in the Northern District of California where activities related to LGE's accused devices occur. Finally, litigating this case in Northern California would be much more convenient for HTC, because its relevant U.S.-based witnesses and evidence are in Bellevue, Washington, which is significantly closer to the Northern District of California than to this District.

The Northern District of California is also a clearly more convenient venue for Plaintiff Summit 6. One of Summit 6's two employees lives in the Northern District of California, and the other lives in Midway, Utah, which is more than 200 miles closer to San Francisco than to Wichita Falls. Based on Defendants' investigation, Summit 6 has no employees or operations in Texas.

Finally, the alleged inventions were developed in the Northern District of California by companies headquartered in that District. In fact, one of the three named inventors still resides there. The patentees also investigated key prior art and took other actions relevant to Defendants' affirmative defenses in the Northern District of California. Moreover, to the extent that Summit 6's infringement allegations require Defendants to call trial witnesses with knowledge of the Android operating system (*e.g.*, Google personnel), the relevant subpoena power stems from the Northern District of California, as Google's headquarters is in that District. *See* Dkt. No. 6 ¶ 107 (accusing "the Twitter Application for Android [and] Android Tablet"). Similarly, employees of the various Defendants outside the subpoena power of this Court (*e.g.*, low-ranking engineers at Twitter knowledgeable about the Twitter functionality in the accused products) would be subject to subpoena power in the Northern District of California, where they reside, but not in this District, if, for example, Plaintiff's claims against Defendants are severed or tried sequentially one Defendant at a time or if a Defendant settles and is therefore no longer a party. *See* Fed. R. Civ. P. 45(c).

While this Court is familiar with two of the three patents-in-suit from prior litigation,<sup>4</sup> this case involves different defendants, witnesses, and accused technologies, and the access to sources of proof, witness convenience, availability of absolute subpoena power, local interest, and other factors weighing in favor of transfer under § 1404(a) outweigh any judicial economy from this Court hearing Plaintiff's claims against these Defendants. Allowing the case to proceed in this District would only reward Summit 6 for its gamesmanship in establishing a sham presence in Dallas, inappropriately joining disparate defendants in one case, and bringing this combined case in Wichita Falls. Whether Summit 6 purports to base its infringement case on the common use of Twitter technology, the native messaging functionality in the four mobile device makers' disparate smartphones, or both, there is no question—given the absence of any relevant witness or document in this District—that the Northern District of California is a clearly more convenient venue than the Northern District of Texas for all parties and witnesses.

For these reasons, and as discussed more fully below, the Court should transfer this action to the Northern District of California, a clearly more convenient venue, pursuant to 28 U.S.C. § 1404(a).

## **II. RELEVANT FACTS**

### **A. The development of the claimed inventions in the Northern District of California.**

The patents-in-suit are U.S. Patents Nos. 6,895,557 (“the ’557 patent”), 7,765,482 (“the ’482 patent”), and 8,612,515 (“the ’515 patent”). The ’557 patent is the parent of the other two, and all three purport to relate to processing digital images.

When the application for the ’557 patent was filed, the three named inventors—Lisa Wood, Scott Lewis, and Robin Fried—were employees of PictureWorks Technology, Inc., a company based in the Northern District of California. *See* Dkt. No. 6 ¶ 1; *see also* APPX011-APPX015 (Combined Decl. and Power of Att’y). The cover pages of the

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<sup>4</sup> *Summit 6 LLC v. Research In Motion Corp., et al.*, No. 3:11-cv-367-O (filed Feb. 23, 2011).

patents-in-suit indicate that all three named inventors resided in the Northern District of California. *See* Dkt. No. 6, Exs. A, B, C.

In 2000, PictureWorks was acquired by iPIX (also known as Internet Pictures Corporation), an imaging technology company with a principal place of business in the Northern District of California. *See* APPX018-APPX021 (press release). As part of the acquisition, PictureWorks assigned to iPIX its interest in the application leading to the '557 patent, which issued in 2005. *See* APPX023-APPX026 (patent assignment abstract of title).

Later in 2005, Sarah Pate, general manager of iPIX and former COO/CFO of PictureWorks, led a management buyout that formed AdMission Corporation. *See* APPX028 (press release). As part of the buyout, AdMission acquired the '557 patent and iPIX's interest in a pending continuation application that eventually led to the '482 patent. *See* APPX025, APPX030 (patent assignment abstracts of title). The assignments filed with the U.S. Patent & Trademark Office ("PTO") listed AdMission's address as San Ramon, California, which is in the Northern District of California. *Id.* On information and belief, AdMission—still operating in the Northern District of California—then tried for three years to commercialize the technology claimed in the patents-in-suit.

In May of 2008, AdMission sold its entire operating business to The Cobalt Group, retaining only its intellectual property—including the patents-in-suit—in its licensing arm, AdMission Licensing LLC. *See* APPX028, APPX033 (press releases). Later that year, AdMission Licensing LLC changed its name to Summit 6 LLC. *See* APPX036 (Delaware LLC Database). The assignments filed with the PTO to evidence the name change listed Summit 6's address as San Ramon, California. APPX025, APPX031 (assignments).

**B. Summit 6's continued presence in Northern California and lack of connections to Texas.**

Based on Defendants' investigation, Summit 6 has two employees: Sarah Pate and Scott Lewis. Ms. Pate resides in the Northern District of California. *See* APPX038 (mortgage document); APPX040 (LinkedIn profile). And Mr. Lewis resided in the Northern District of

California until the fall of 2013, moving to Midway, Utah, just months before the Complaint was filed. APPX046 (mortgage document); APPX156 (contact report).<sup>5</sup>

Summit 6 purports to have its principal place of business in Dallas (not Wichita Falls). *See* Dkt. No. 6 ¶ 4. But its alleged office at 4925 Greenville Ave., Suite 200, is a mail-stop “virtual office” that, for a monthly fee, allows businesses to use its “local professional business address” and forwards any mail it receives for them. *See* APPX050, APPX053 (Davinci Virtual Office webpages). Indeed, *dozens* of organizations list 4925 Greenville Ave., Suite 200, as their principal place of business. *See, e.g.,* APPX055-APPX069 (sampling of other businesses using this address). Based on Defendants’ investigation, Summit 6 has no operations in Dallas, or anywhere in Texas.

**C. Defendants’ extensive connections to California and lack of relevant connections to the Northern District of Texas.**

Twitter is a Delaware corporation headquartered in San Francisco, which is in the Northern District of California. As of April 2014, Twitter employs approximately 1,960 employees in the Northern District of California. APPX238 (Axelsen Decl.) ¶ 7. Twitter’s senior executive team is based in San Francisco, and decisions related to Twitter’s overall business—including the most significant engineering, sales, and marketing decisions related to Twitter’s software operations—are made there. *Id.* ¶ 8. Twitter’s software operations are also based largely at its San Francisco headquarters. *Id.* ¶ 9. Indeed, the vast majority, if not all, of Twitter’s employees with knowledge of the development, implementation, and operation of the systems or services described in Summit 6’s Complaint work at Twitter’s headquarters in San Francisco. *Id.* ¶ 9. In particular, Twitter’s multimedia messaging services are developed by the Mobile Messaging Team, and Twitter’s photo features are developed by the Photos Team, both of which are based entirely in San Francisco. *Id.* ¶ 10. Even at this early stage of the

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<sup>5</sup> Midway, Utah, is 200 miles closer to San Francisco than to Wichita Falls. APPX162, APPX164 (Google Maps).



proceedings, therefore, Twitter has identified two likely witnesses (described below) in the Northern District of California. Moreover, most or all of Twitter's sources of proof are located at, or accessed and managed from, Twitter's San Francisco headquarters. *Id.* ¶ 10. And given that the Complaint accuses "the Twitter Application for Android [and] Android Tablet," Dkt. No. 6 ¶ 107, potentially relevant evidence regarding Android may be in the possession of third party Google, located in Mountain View (also in the Northern District of California). Twitter does not own or lease any real property, employ any individual, or maintain any documents within the Northern District of Texas. APPX238 (Axelsen Decl.) ¶ 11.

Apple is a California corporation with its principal place of business in Cupertino, California, which is in the Northern District of California. Apple's management, research and development, and marketing are primarily based in or near Cupertino, which is also where the bulk of its decision making takes place. APPX240 (Buckley Decl.) ¶ 5. As of March 29, 2014, Apple has more than 17,400 employees who work in or near Cupertino, and it is in the process of building a new campus in Cupertino that will increase its presence there. *Id.* The vast majority, if not all, of the design, development, and marketing efforts for Apple that is relevant to this action occurred or is occurring in or near Cupertino, California. *Id.* ¶ 6. Likewise, the vast majority, if not all, of the sources of proof, including the electronic and paper records of the witnesses' work, relevant technical documents and source code, and relevant financial documents, are also located in or near Cupertino. *Id.* ¶ 7. Even at this preliminary stage of the proceedings, Apple has identified four likely witnesses (described below) in the Northern District of California.

Motorola is a Delaware limited liability company with its principal place of business in Chicago, Illinois, but it operates a large office in Sunnyvale, California, which is in the Northern District of California. As of June 2014, Motorola employs approximately 537 people in its Sunnyvale office. APPX245 (Brown Decl.) ¶ 7. Documents related to the design, development, and sales of Motorola's accused products are located in Sunnyvale, and some of the design and development work on those products occurred in Sunnyvale. *Id.* ¶ 13. Motorola has already

identified three likely witnesses who reside in the Northern District of California (described below), and it expects to identify more as the case progresses. *Id.* ¶¶ 9-10. Although Motorola currently leases real property in Fort Worth and employs 29 people there, Motorola has announced that it will terminate its lease by the end of 2014. *Id.* ¶¶ 17-19. Additionally, no activities related to the research, design, sales, or marketing of Motorola's accused products occurred in Fort Worth. Instead, the design and development of Motorola's products occurred in either Sunnyvale, California, or Chicago, Illinois, and Motorola's relevant witnesses and evidence are located in those cities. *Id.* ¶ 13.

Summit 6 has also sued three LGE entities: LGE MobileComm, LGE Inc., and LGE USA. But LGE MobileComm, a California corporation headquartered in San Diego, is the only LGE entity that imports, markets, and sells LG-branded mobile products—including the accused smartphones and related accessories—in the U.S. APPX297 (Son Decl.) ¶ 6. LGE MobileComm also leases a 25,000-square-foot office in San Jose, California (the “San Jose office”), which is in the Northern District of California. *Id.* ¶ 11. The San Jose office is staffed with one LGE MobileComm sales employee and fifty-six employees of a wholly-owned subsidiary, LG Electronics Mobile Research U.S.A., Inc. (“LGE MR”). *Id.* LGE Inc., which manufactures the accused LGE devices, is a Korean company with its headquarters, relevant employees, and documents in Seoul, South Korea. *Id.* ¶ 5. And the final LGE defendant—LGE USA—is a wholly-owned subsidiary of LGE Inc. that has no role in the importation, design, development, manufacture, or sale of the accused LGE products. *Id.* ¶ 21. Accordingly, LGE USA will not call any Texas-based employees as witnesses in this case and does not keep any relevant documents in Texas. For these reasons, and as explained in more detail below, LGE's relevant U.S. presence is in San Jose, California (which is in the Northern District of California), and in San Diego, California (which is 909 miles closer to San Francisco than to Wichita Falls), and most, if not all, of LGE's relevant U.S.-based witnesses and evidence are in those Districts. Indeed, LGE has already identified eleven likely witnesses (identified below) who reside in the Northern District of California.

Finally, Summit 6 has sued two HTC entities: HTC Corporation, a Taiwanese parent company, and its subsidiary HTC America, Inc., which is the U.S. operating company headquartered in Bellevue, Washington. APPX249 (Bariault Decl.) ¶¶ 2, 8. While witnesses knowledgeable about the design, development, and functionality of HTC’s mobile devices are located in Taiwan, the majority of HTC witnesses knowledgeable about the marketing, sales, and distribution of the accused devices are located at HTC America’s headquarters in Bellevue, which is over 1,000 miles closer to the Northern District of California than to this District.<sup>6</sup> *Id.* ¶¶ 8, 11. Likewise, sources of proof regarding the design, development, and operation of HTC devices are located in Taiwan, while sources of proof regarding the marketing and sale of those devices in the U.S. are located in Bellevue. *Id.* ¶ 10. At this preliminary stage of the proceedings, HTC has identified at least one likely witness who resides in Seattle, Washington.

**D. Prior litigation against Samsung.**

In 2011, Summit 6 filed suit against seven companies in the Dallas Division of the Northern District of Texas, alleging infringement of the ’557 and ’482 patents (two of the three patents asserted here). One of the defendants in that case—Samsung Telecommunications America LLC (“STA”)—is headquartered in Dallas, Texas, and another Defendant—Research in Motion Ltd.—has its U.S. headquarters in Irving, Texas. *See* APPX229, APPX231. Thus, the defendants in that case never moved for a transfer pursuant to § 1404(a). Only Samsung Electronics Co. Ltd. and STA proceeded to trial, where claims 40, 44-46, and 49 of the ’482 patent were litigated.<sup>7</sup> *See Summit 6 LLC v. Research in Motion Corp.*, No. 3:11-cv-367-O, 2013 U.S. Dist. LEXIS 95164, at \*6 (N.D. Tex. June 26, 2013) (“*Samsung*”). The jury found infringement and awarded Summit 6 \$15 million in damages. The case is currently on appeal. *See Summit 6, LLC v. Samsung Electronics Co., Ltd.*, Federal Circuit Appeal No. 13-648.

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<sup>6</sup> According to Google Maps’ distance tool, Bellevue, Washington, is 811 miles from San Francisco and 1,960 miles from Wichita Falls. *See* APPX077, APPX079 (Google Maps reports).

<sup>7</sup> Summit 6 did not accuse Samsung of infringing the ’557 patent.

**E. Claims against Defendants in this case.**

In contrast to the five claims of the '482 patent litigated through trial in the *Samsung* matter, Summit 6 alleges in this case that Defendants infringe between fifty-eight and ninety-five claims of three patents-in-suit. *See* Dkt. No. 6 ¶¶ 23, 47, 83, 95, 107, 121, 145, 181, 193, 205, 219. Summit 6's infringement allegations relate to, among other things, Defendants' respective "Application Program Interfaces" (APIs), "native content sharing options," and "Twitter" functionality, none of which was at issue in *Samsung*. *See, e.g., id.* ¶¶ 5-12. Similarly, none of the dozens of mobile devices alleged to implement these features was at issue in the *Samsung* case. *See id.* ¶¶ 23, 47, 83, 95, 107, 121, 145, 181, 193, 205, 219. Moreover, the accused Apple devices run on a completely different operating system (Apple iOS) than the products at issue in *Samsung*, and Summit 6 bases its allegations against Apple in significant part on that operating system. *See id.* ¶¶ 99, 107, 197, 205.

**III. ARGUMENT****A. This case should be transferred to the Northern District of California.**

For the convenience of the parties and witnesses, and in the interests of justice, a district court may transfer a civil action to any other district or division where it might originally have been brought. 28 U.S.C. § 1404(a). Transfer is appropriate under § 1404(a) if, first, the action "might have been brought" in the transferee venue; and if, second, transferring the case would serve the convenience of the parties and witnesses and the interests of justice. *In re Volkswagen of Am., Inc.*, 545 F.3d 304, 312 (5th Cir. 2008) (*en banc*) ("*Volkswagen II*").<sup>8</sup>

To determine whether the transferee venue is more convenient, the Fifth Circuit considers both "private" and "public" interest factors. *Volkswagen II*, 545 F.3d at 315. The "private" interest factors are: (1) the relative ease of access to sources of proof; (2) the availability of compulsory process to secure the attendance of witnesses; (3) the cost of attendance for willing

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<sup>8</sup> Fifth Circuit law regarding transfer of venue under § 1404(a) applies to this patent infringement action. *In re TS Tech USA Corp.*, 551 F.3d 1315, 1319 (Fed. Cir. 2008).

witnesses; and (4) all other practical problems that make a trial easy, expeditious and inexpensive. *Id.* The “public” interest factors are: (1) the administrative difficulties flowing from court congestion; (2) the local interest in having localized interests decided at home; (3) the familiarity of the forum with the law that will govern the case; and (4) the avoidance of unnecessary problems of conflicts of laws or in the application of foreign law. *Id.* As set forth below, all of the private interest factors support transfer to the Northern District of California, and one of the public interest factors supports transfer, with the others being neutral.

**1. This action could have been brought in the Northern District of California.**

Setting aside joinder issues and the impropriety of Summit 6 suing all Defendants in the same case, there can be no reasonable dispute that this action could have been brought in the Northern District of California. Because Defendants Apple and Twitter both reside in the Northern District of California, personal jurisdiction lies there and venue is appropriate under 28 U.S.C. § 1391(b)(1). Motorola and LGE MobileComm each have a regular and established place of business in the Northern District of California, so personal jurisdiction lies there and venue is appropriate under 28 U.S.C. §§ 1400(b) and 1391(c). And because HTC, HTC America, LGE USA,<sup>9</sup> and LGE Inc. do business in the Northern District of California, personal jurisdiction lies there and venue is appropriate under 28 U.S.C. § 1391(c)(2). *See VE Holding Corp. v. Johnson Gas Appliance Co.*, 917 F.2d 1574, 1575-76 (Fed. Cir. 1990). Accordingly, the Northern District of California is a venue in which this action could originally have been brought against every Defendant.

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<sup>9</sup> LGE USA has been registered with the Secretary of State of California to do business in California under Entity Number C1061050 since December 3, 1981. LGE USA’s wholly-owned subsidiary LGE MobileComm and its indirect subsidiary LGE MR are located in California with an established place of business in the Northern District of California relating to the LGE products accused to infringe, and therefore jurisdiction and venue over LGE USA is proper in the Northern District of California. *See Synopsis, Inc. v. Ricoh Co., Ltd.*, 343 F. Supp. 2d 883, 887-88 (N.D. Cal. 2003).

**2. The private interest factors overwhelmingly favor transfer.**

**a. The Northern District of California would be a far more convenient forum for all known witnesses.**

Witness convenience is a critical factor under § 1404(a). *See In re Genentech, Inc.*, 566 F.3d 1338, 1343 (Fed. Cir. 2009). Further, courts weigh the convenience of non-party witnesses more heavily than the convenience of party witnesses. Indeed, “the convenience of non-party witnesses is the *most* important consideration in analyzing a motion to transfer.” *QR Spex, Inc. v. Motorola, Inc.*, 507 F. Supp. 2d 650, 666 (E.D. Tex. 2007) (emphasis added). The Fifth Circuit has established the “100-mile” rule, recognizing that where—as here—the distance between the existing and proposed venues is more than 100 miles, “the factor of inconvenience to witnesses increases in direct relationship to the additional distance to be traveled.” *Volkswagen II*, 545 F.3d at 317.

Defendants currently know of *no* likely witnesses who reside in the Northern District of Texas. In contrast, even at this early stage, Defendants have collectively identified at least the following 20 witnesses who reside in the Northern District of California who likely possess relevant information:

- **Summit 6 witnesses**
  - **Sarah F. Pate** – Managing director of Summit 6, former CEO of AdMission, and former COO/CFO of PictureWorks. APPX040.
  - **Lisa T. Wood** – The first named inventor on all three patents-in-suit. APPX046.
- **Twitter witnesses**
  - **Marcus Hanson** – Manager, Software Engineering, in Twitter’s Mobile Messaging Team who has knowledge of the design and operation of Twitter’s mobile messaging features. APPX239 ¶ 10.
  - **Matt Lewis** – Manager, Software Engineering, in Twitter’s Photo Team who has knowledge of the design and operation of Twitter’s photo features. *Id.*
- **Apple witnesses**
  - **Justin Wood** – Engineering Manager for iMessages at Apple who has knowledge of the design and operation of some of the accused products and services, including iMessage, MMS messages, and related APIs. APPX242.

- **Guy Fullerton** – Senior Staff Engineer in the iOS Productivity group at Apple who has knowledge of the design and operation of some of the accused products and services, including sharing options accessible without an app and related APIs. *Id.*
- **Gokul Thirumalai** – Engineering Manager for Push Notification System and iMessage Delivery at Apple who has knowledge of the design and operation of some of the accused products and services, including iMessages. *Id.*
- **Mark Buckley** – Finance Manager who has knowledge of Apple’s finances as they may relate to Summit 6’s claims for damages in this action. *Id.*
- **Motorola witnesses**
  - **Naveen Aerrabotu** – A Director at Motorola who is knowledgeable about messaging-related functionality, including MMS functionality, messaging-related applications, and the use of the same to generate, process, send, and receive an MMS message on Motorola’s phones. APPX245 ¶ 9.
  - **Jason Tsyumora** – An engineer at Motorola who is also knowledgeable about Android, the operating system on Motorola’s phones, and regarding the dissemination and loading of Android source code on Motorola phones. *Id.* ¶ 10.
  - **Ben Sherwin** – An employee in Motorola’s finance group who has knowledge of the sales, revenue, and costs associated with Motorola’s accused products. *Id.* ¶ 11.
- **LGE witnesses**
  - **Cecilia Son** – A Director in the Partner Engineering Team of LGE MR, a wholly-owned subsidiary of LGE MobileComm. Ms. Son and her team are located in LGE MobileComm’s San Jose, California offices and have knowledge of the accused LG-branded Android devices, including product certification efforts with non-party Google. APPX297 ¶ 1.
  - **Steven Howard, Bum Suk Bae, Joonhyun Baek, Jae Wook Cho, Dong Ho Han, Jeong Rae Kim, Kush Shrivastava, and Namrata Suryavanshi** – Members of Ms. Son’s team in San Jose, California, and employees of LGE MR who are knowledgeable about the accused LG-branded Android devices, including product certification with non-party Google. *Id.* ¶ 9.
- **Additional witnesses for each non-Twitter Defendant**
  - **Twitter employees** – As discussed herein by Twitter, all Twitter employees with relevant knowledge of the various Twitter applications used in the respective accused products of Apple, Motorola, LGE, and HTC work in Twitter’s San Francisco, California headquarters, including Marcus Hanson and Matt Lewis.
- **Additional witnesses from non-party Google**
  - **Google employees** – To the extent that Summit 6’s infringement allegations require Defendants to call trial witnesses with relevant knowledge of the MMS functionalities within the Android operating system used in some of Defendants’ accused products (*e.g.*, Google employees), such Google employees are believed to reside in the Northern District of California.

The parties will likely identify even more witnesses who reside in the Northern District of California and are likely to be called at trial after discovery commences, because (1) all of Twitter's employees with relevant knowledge of the accused products and services live near its San Francisco headquarters; (2) the vast majority, if not all, of Apple's employees with relevant knowledge of the accused products and services reside near its Cupertino headquarters; (3) the alleged inventions claimed in the patents-in-suit were developed in the Northern District of California; (4) the two previous owners of the patents-in-suit, PictureWorks and AdMission, were based in that District, and their former employees most likely reside there; (5) one of Summit 6's two employees resides in that District; (6) four of the five Defendants are headquartered or have major offices, and thus collectively thousands of employees, in that District; and (7) Defendants developed a number of the accused products and services there.

In addition, many other potential witnesses are likely to reside in California or in other West Coast districts, because (1) LGE MobileComm has its principal place of business in San Diego, California; (2) HTC America has its principal place of business in the State of Washington; (3) The Cobalt Group, which acquired AdMission's operating business, is headquartered in Seattle; and (4) Swiftsure Capital, which financed the management buyout that formed AdMission Corporation and helped perform the due diligence that uncovered highly relevant prior art,<sup>10</sup> is also headquartered in Seattle. Indeed, Defendants have already identified the following witnesses who are likely to provide relevant testimony at trial and who reside in other parts of California and on the West Coast:

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<sup>10</sup> In 2006, while the application for the '482 patent was still pending, AdMission explored opportunities to enhance its patent portfolio. As part of that endeavor, AdMission board members, assisted by Swiftsure Capital and by the Northern California law firm Fenwick & West, performed due diligence on U.S. Patent No. 6,721,802 ("the '802 patent"), which belonged to Point2 Technologies ("Point2"). See APPX084-APPX085 (*Samsung* trial transcript). During due diligence, however, AdMission discovered that, in 1997—more than a year before the filing date for the '557 patent—Point2 had publicly disclosed and used a photo upload facility that practiced the claims of the '557 patent. See APPX087-APPX099 (*Samsung* trial transcript). Concerned that Point2's photo upload facility "could seriously impair" the value of Summit 6's patent portfolio, AdMission abandoned negotiations to purchase the '802 patent. See APPX101-APPX102 (*Samsung* Defendants' Ex. 2029).



- **Peter Yoakum** – Former member of Summit 6’s board of managers and former managing partner at Swiftsure Capital. Mr. Yoakum performed due diligence on Point2’s photo upload facility and concluded that its public disclosure had endangered Summit 6’s patent portfolio. Mr. Yoakum resides near Seattle, Washington. APPX151-APPX152.
- **Scott F. Wilson** – Member of Summit 6’s board of managers and founder of Swiftsure Capital who was part of the team that performed due diligence on Point2’s photo upload facility, a key piece of prior art. Mr. Wilson resides in Seattle, Washington. APPX048.
- **Gordon Gardiner** – Member of Summit 6’s board of managers and managing partner at Swiftsure Capital. Mr. Gardiner resides in Seattle, Washington. APPX160.
- **Stephanie Bariault** – Vice President of Operations at HTC America who is knowledgeable about the design, marketing, and distribution of HTC’s mobile devices. Ms. Bariault resides in Seattle, Washington. APPX250.
- **Eric Ley** – Vice President and Director of National Retail Accounts at Defendant LGE MobileComm who is knowledgeable about the sales and account management for customers of LGE’s accused devices. Mr. Ley works in the San Diego, California office of LGE MobileComm. APPX297 ¶ 15.

For these witnesses, too, the Northern District of California is a significantly more convenient venue than the Northern District of Texas. For example, the distance between Seattle and the Northern District of California is approximately 1,000 miles less than the distance between Seattle and the Northern District of Texas. *See In re Genentech, Inc.*, 566 F.3d at 1345 (holding that a defendant’s research and development facilities in the Southern District of California weighed in favor of transfer to the Northern District of California because “at least some of [the defendant’s] employees and managers would have to travel approximately half the distance to attend trial in Northern District of California than in the Eastern District of Texas”). Furthermore, the San Francisco, Oakland, and San Jose Divisions of the Northern District of California are all home to international airports, so all known witnesses could take direct flights to that venue. By contrast, because Wichita Falls does not have a major airport, all witnesses would have to connect through the Dallas/Fort Worth airport, or drive 123 miles from that airport to Wichita Falls.<sup>11</sup> APPX273 (Google Maps). Litigating in Wichita Falls would be particularly

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<sup>11</sup> The Wichita Falls Municipal Airport only offers four daily flights to and from the Dallas/Fort Worth airport. APPX234 (Wichita Falls Municipal Airport webpage).

inconvenient for HTC's Taiwan-based witnesses, such as Minfeng Hong,<sup>12</sup> who would have to take a minimum of *three* flights to reach Wichita Falls due to the lack of direct flights between Taiwan and Dallas-Fort Worth. *See In re Volkswagen AG*, 371 F.3d 201, 204 n.3 (5th Cir. 2004) ("*Volkswagen I*") (noting that the lack of direct flights to a proposed venue increases the inconvenience to witnesses). Similarly, LGE Inc. witnesses coming from Korea can take one of six direct flights from Seoul to San Francisco, with an approximate travel time of 10.5 hours. *See* APPX205 (Orbitz report). But there are no direct flights from Seoul to Wichita Falls, and the shortest connecting flights require an approximate total travel time of 15.5 hours. APPX211 (Orbitz report). And whereas LGE MobileComm witnesses coming from San Diego can take a 90-minute direct flight from San Diego to San Francisco, there are no direct flights to Wichita Falls, and the shortest connecting flights require an approximate total travel time of 4 hours and 45 minutes. APPX190, APPX196 (Orbitz reports).

In summary, because (1) an overwhelming number of material witnesses reside within the transferee venue and the state of California, (2) the Northern District of California is significantly more convenient for other material witnesses who live on the West Coast and abroad, and (3) no likely witnesses reside within the Northern District of Texas, this factor weighs strongly in favor of transfer. *See In re Genentech*, 566 F.3d at 1345 (holding that the district court "clearly erred" in not finding this factor to weigh "substantially in favor of transfer" where a substantial number of witnesses resided in the transferee district and none resided in the plaintiff's chosen venue); *In re Acer Am. Corp.*, 626 F.3d 1252, 1255 (Fed. Cir. 2010) (holding, where most of the U.S.-based defendants were headquartered in California and no party was headquartered in the plaintiff's chosen district, that this factor "clearly favor[ed] transfer").

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<sup>12</sup> Minfeng Hong is the manager of the research and development team responsible for HTC's MMS application. APPX249 (Bariault Decl.) ¶ 4.

**b. The Northern District of California could compel the attendance of critical third-party witnesses.**

The second private interest factor is the availability of compulsory service of process to secure the attendance of witnesses. *Volkswagen II*, 545 F.3d at 316. “This factor will weigh more heavily in favor of transfer when more third-party witnesses reside within the transferee venue.” *FutureVision.com, LLC. v. Time Warner Cable, Inc.*, No. 6:12-cv-386, 2013 WL 5496810, at \*4 (E.D. Tex. Apr. 22, 2013) (citing *Volkswagen II*, 545 F.3d at 316).

The Northern District of California could compel numerous non-party witnesses who reside in that District to attend both deposition and trial. *See* Fed. R. Civ. P. 45(c)(1). This includes (1) former employees of Summit 6 predecessors AdMission and PictureWorks who still live in the San Francisco Bay Area; (2) witnesses who investigated the Point2 photo-upload prior art; (3) current employees of both Summit 6 and Defendants who may leave their employment between now and trial and thereby become non-party witnesses but continue to reside in California; (4) employees of non-party Google; and (5) depending on how this case unfolds, employees of a current Defendant who may become non-party witnesses whom another Defendant calls to testify at its trial but who cannot be compelled to attend trial in Wichita Falls because they reside in the Northern District of California. For example, Twitter employees would be non-party witnesses—no different from any other non-Defendant, non-party witnesses—for purposes of a trial between Summit 6 and LGE.

Because none of the known non-party witnesses resides in or near the Northern District of Texas, however, this Court could not compel their attendance. And it is unlikely that the California-based non-party witnesses would voluntarily testify at trial in Wichita Falls given that they would have to travel almost 2,000 miles to do so. *See Volkswagen II*, 545 F.3d at 317 (noting that “it is an obvious conclusion that it is more convenient for witnesses to testify at home” and describing the burdens of traveling more than 100 miles (internal quotation marks omitted)). Accordingly, this factor, too, weighs strongly in favor of transfer. *See In re Genentech*, 566 F.3d at 1345 (holding that where no known witnesses reside in the plaintiff’s

chosen district, “[t]he fact that the transferee venue is a venue with usable subpoena power . . . weighs in favor of a transfer, and not only slightly”); *FutureVision.com*, 2013 WL 5496810, at \*4 (finding that this factor “weigh[ed] strongly in favor of transfer” where the plaintiff had identified just one potential third-party witness in the chosen district and defendants had identified “several” in the transferee district).

**c. The Northern District of California has easier access to sources of proof.**

“In patent infringement cases, the bulk of the relevant evidence usually comes from the accused infringer. Consequently, the place where the defendant’s documents are kept weighs in favor of transfer to that location.” *In re Genentech*, 566 F.3d at 1345. Moreover, the fact that some sources of proof are electronic does not diminish the relevance of this factor. *See In re TS Tech USA Corp.*, 551 F.3d 1315, 1320-21 (Fed. Cir. 2008).

This case is no exception. Because Defendants Twitter and Apple are both headquartered in the Northern District of California, the vast majority of likely sources of proof, including documentation for the accused systems and services, are also located, accessed, or managed in the Northern District of California. Both Defendants’ relevant technical research, design, development, and testing work regarding the accused products occur in that District. Furthermore, decisions regarding marketing, sales, and pricing of any such allegedly infringing products and services occurred predominantly at these Defendants’ respective headquarters. *See In re Acer Am. Corp.*, 626 F.3d at 1256 (finding that this factor weighed in favor of transfer where the defendant’s technical research, design, development, and testing work regarding the accused product occurred in the transferee district).

Similarly, Motorola has a large office in the Northern District of California that specializes in the design of its mobile devices and mobile messaging services. APPX245-APPX246 (Brown Decl.) ¶¶ 8-10, 13. Thus, most of Motorola’s likely sources of proof are also located, accessed, or managed in the Northern District of California. Furthermore, at least some of the design and development work of Motorola’s accused products takes place in that District:

for example, Mr. Aerrabotu's team at Motorola's Sunnyvale location is responsible for messaging-related functionality, including MMS functionality, messaging-related applications, and the use of the same to generate, process, send, and receive an MMS message at Motorola's phones. *Id.* ¶ 9.

As noted, LGE MobileComm is responsible for the importation, marketing, and sales of the accused LGE devices in the United States. LGE MobileComm anticipates that most of its likely sources of proof relevant to the functionality of the accused devices are located in its San Jose office, in the Northern District of California. APPX297 ¶ 14. Further, relevant evidence regarding the Android operating system (the operating system for some of LGE's accused products) may come from third party Google, located in Mountain View; and evidence regarding the Twitter functionality will come from Twitter, located in San Francisco. *Id.* ¶¶ 12-13. Other likely sources of proof relevant to the sales and marketing of the accused LGE devices are at LGE MobileComm's principal place of business in San Diego, California. *Id.* ¶ 16. Thus, the Northern District of California has easier access to LGE MobileComm's sources of proof located in San Jose, San Francisco, Mountain View, and San Diego. *See In re Genentech*, 566 F.3d at 1346-47 (finding that this factor weighed in favor of transfer to the Northern District of California where one defendant was headquartered in that District, all of the other defendant's relevant materials were in San Diego, and no evidence was in Texas). The Northern District of California also has easier access to LGE Inc.'s sources of proof, which are located in Seoul, because (1) Seoul is more than 1,000 miles closer to San Francisco than to Wichita Falls; and (2) there are direct flights between Seoul and San Francisco, but not between Seoul and Wichita Falls. APPX221, APPX223 (Geobytes reports); APPX205, APPX211 (Orbitz reports).

For the reasons given above, the Northern District of California also has easier access to HTC's sources of proof, which are located either in the State of Washington or in Taiwan.

Finally, even Summit 6's evidence is likely to be located in the Northern District of California. The named inventors resided in the San Francisco Bay Area and were employed by Bay-Area companies when they allegedly developed the technology claimed in the

patents-in-suit. *See* Dkt. No. 6 ¶ 1; *supra* at 3-4. Moreover, one of Summit 6's two employees lives in the Northern District of California; the other lived there until fall 2013; and one of the three named inventors still resides in that District. *See* APPX040, APPX044, APPX046.

Summit 6 may argue that its documents and other evidence are now in the Northern District of Texas because of the *Samsung* case, but such "artifacts of litigation" are entitled to no weight in the transfer analysis. *See In re Verizon Bus. Network Servs. Inc.*, 635 F.3d 559, 561-62 (Fed. Cir. 2011) (rejecting plaintiff's argument that this factor weighed against transfer because plaintiff had "maintained sources of proof in Marshall, Texas[,] from its prior litigation"; those documents were "artifacts of its prior litigation"); *In re Hoffman-La Roche Inc.*, 587 F.3d 1333, 1336-37 (Fed. Cir. 2009) (holding that 75,000 pages of documents transferred them from California to Texas in anticipation of litigation were entitled to no weight in the transfer analysis); *see also EON Corp. IP Holdings, LLC v. Sensus, USA, Inc.*, No. 2:10-cv-448, 2012 WL 122562, at \*5 (E.D. Tex. Jan. 9, 2012) (noting that the plaintiff had incorporated in Texas two years prior to filing but that it may still have done so "'in anticipation of litigation,' perhaps as to [its] prior suits in this district"). Accordingly, this factor, too, weighs in favor of transfer.

**d. Litigating in the Northern District of California would resolve practical problems and make trial easier, more expeditious, and less expensive.**

The final private interest factor also favors transfer, because trying the case in the Northern District of California will resolve many practical problems. First, unlike Wichita Falls, the Northern District of California can be accessed via three international airports, which is particularly important for the international Defendants. Second, a trial in California will greatly reduce the number of people required to travel. If this case is tried in Wichita Falls, every single witness will have to travel, including Summit 6's witnesses. While Summit 6 does not produce or market any products, Defendants' operations will be disrupted if their employees are required to travel to Wichita Falls. *See* APPX243 ¶ 15; APPX247 ¶ 12; APPX254 ¶ 23. Moreover, key witnesses' attendance may be compelled in California, whereas many non-party witnesses may

choose not to attend a trial in this District. Finally, the vast majority of relevant evidence is already located in the Northern District of California. For all of these reasons, litigating in the Northern District of California will be less expensive and more efficient.

Summit 6 will likely argue that it is more efficient to litigate in Texas because this Court presided over the prior *Samsung* case in the Dallas Division of the Northern District of Texas. However, the Federal Circuit has made clear that judicial economy concerns do not control when another venue is clearly more convenient. *See In re Morgan Stanley*, 417 F. App'x 947, 949 (Fed. Cir. 2011) (“[T]he proper administration of justice may be to transfer to the far more convenient venue even when the trial court has some familiarity with a matter from prior litigation.”); *In re Zimmer Holdings, Inc.*, 609 F.3d 1378, 1382 (Fed. Cir. 2010) (explaining that “the fact that [plaintiff] had also filed suit against another defendant in the same forum” did not “negate[] the significance of having trial close to where most of the identified witnesses reside and where the other convenience factors clearly favor”).

In *In re Verizon*, for example, the district court denied a transfer motion based on principles of judicial economy, noting that it had issued a claim construction order in a prior case involving the same patent and asserting that, if it transferred the case, “the past two years of litigation before [it would] have to be duplicated.” 635 F.3d at 561 (quoting *Red River Fiber Optic Corp. v. Verizon Servs. Corp.*, No. 08-cv-0215, 2010 WL 3064012, at \*1 (E.D. Tex. Aug. 3, 2010)). The Federal Circuit reversed, stating that “[t]o interpret § 1404(a) to hold that any prior suit involving the same patent can override a compelling showing of transfer would be inconsistent with the policies underlying § 1404(a).” *Id.* at 562. Principles of judicial economy would have weighed more strongly against transfer, said the court, had the other suit still been pending. *Id.* Because the other case had settled years before, however, any judicial economy was “too tenuous a reason to support denial of transfer.” *Id.*

Here, as in *Verizon*, there is no co-pending litigation (the *Samsung* case is on appeal and is no longer pending in the Northern District of Texas), so judicial economy concerns do not weigh strongly against transfer. Moreover, none of products and services accused here was at

issue in the prior matter. And whereas the *Samsung* trial involved five claims of a single patent, here Summit 6 accuses each Defendant of infringing between fifty-eight and ninety-five claims of the three patents-in-suit. Because this case involves different defendants, different claims, an additional patent, and different accused products and services (*e.g.*, different APIs, different “native” content sharing options, and, in Apple’s case, a different operating system altogether), any anticipated judicial economy is significantly lessened. *See Zimmer*, 609 F.3d at 1382 (noting that because the two actions “involve[d] different products with only a single overlapping patent and no defendant [was] involved in both actions,” it was “likely that [the] cases [would] result in significantly different discovery, evidence, proceedings, and trial”).

Finally, the five claims of the ’482 patent for which the jury returned a judgment of infringement are currently under reexamination, and the PTO recently issued a Final Rejection that held all five claims unpatentable. *See* APPX107-APPX108. It is therefore likely that these claims will be canceled or at least amended, thus eliminating any overlap with the claims this Court tried in the *Samsung* case.<sup>13</sup> Even if the original claims do survive, this case will require new claim-construction proceedings that take into account additional prosecution history in light of the reexamination, which is considered intrinsic evidence in the context of construing any disputed claim terms. *See 01 Communique Lab., Inc. v. LogMeIn, Inc.*, 687 F.3d 1292, 1298 (Fed. Cir. 2012). In short, claim construction will have to be revisited in the present case in light of the pending reexamination. The Northern District of California participates in the Patent Pilot Program and is equally capable of performing this new analysis.

In conclusion, the witnesses’ convenience, the location of sources of proof, the availability of compulsory process, and the interests of justice all overwhelmingly favor transfer. Further, as in *Verizon*, any judicial economy to be gained from retaining the case is minimal.

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<sup>13</sup> The PTO’s statistics indicate that the patent’s original claims are confirmed in just 8% of *inter partes* reexams and 21% of *ex parte* reexams. *See* APPX171 (*Inter Partes* Reexamination Filing Data); APPX178 (*Ex Parte* Reexamination Filing Data).



**3. The public interest factors either favor transfer to the Northern District of California or are neutral.**

**a. The Northern District of California has a strong local interest in resolving the dispute, favoring transfer.**

An important public interest factor analyzes “the local interest in having localized interests decided at home.” *Volkswagen II*, 545 F.3d at 317. This factor weighs in favor of transfer where the transferee district has more factual connections to the suit than the current venue. *Id.* A district may also have a local interest in a case when it is home to a party, because the suit may call into question the reputation of individuals who work and conduct business in the community. *In re Hoffman-La Roche Inc.*, 587 F.3d at 1336. As the Fifth Circuit has explained, the local-interest factor is important because “jury duty is a burden that ought not to be imposed upon the people of a community which has no relation to the litigation.” *Volkswagen I*, 371 F.3d at 206 (quoting *Gulf Oil Corp. v. Gilbert*, 330 U.S. 501, 508-09 (1947)).

There can be no question that the Northern District of California has a strong local interest in resolving this dispute. First, one of Summit 6’s two employees resides in Northern California, and the other resided there until October 2013. Second, this action concerns claimed inventions allegedly conceived and developed in, and attributed to residents of, the Northern District of California. *See* Dkt. No. 6 ¶ 1; *id.* Exs. A, B, C. Third, many of the actions giving rise to Defendants’ inequitable conduct defense—namely, the due diligence performed on the Point2 prior art—took place in the Northern District of California. *See Odom v. Microsoft Corp.*, 596 F. Supp. 2d 995, 1003 (E.D. Tex. 2009) (weighing in favor of transfer the fact that agreements relevant to affirmative defenses had been negotiated in the transferee district). And finally, four of the five Defendants are headquartered or have offices in the Northern District of California, which is also where they developed many of the accused products and services, including the operating systems on the accused devices and the Twitter functionality. All together, the Defendants employ nearly 20,000 employees in the Northern District of

California.<sup>14</sup> Because Summit 6’s infringement allegations call into question the work and reputation of thousands of people in and around the Northern District of California, that District has a substantial local interest in the case. *See Landmark Tech., LLC v. Ann Inc.*, No. 6:12-cv-00672-MHS-JDL, 2013 WL 3354451, at \*4 (E.D. Tex. July 1, 2013) (holding that this factor favored transfer where it called into question the work and reputation of “hundreds of people” at the defendant’s headquarters in the transferee district).

In contrast, other than the prior *Samsung* litigation, this case has **no** meaningful connection to the Northern District of Texas. Nationwide sales of accused products or services do not create any local interest here. *See In re TS Tech*, 551 F.3d at 1321 (holding that sales of accused products in the district did not create any “more or less of a meaningful connection to th[e] case” for citizens of that district than citizens of any other district where the products were sold); *Volkswagen II*, 545 F.3d at 318 (explaining that construing nationwide sales as creating a local interest “stretches logic in a manner that eviscerates [what] this factor attempts to capture”).

Neither does Summit 6’s contrived “presence” in Dallas create any local interest here. The Federal Circuit has expressly rejected the “fallacious assumption” that a court “must honor connections to a preferred forum made in anticipation of litigation and for the likely purpose of making that forum appear convenient.” *In re Microsoft Corp.*, 630 F.3d 1361, 1364 (Fed. Cir. 2011). In *Zimmer Holdings*, for example, the plaintiff, MedIdea, argued that its decision to file suit in the Eastern District of Texas was entitled to deference because its principal place of business was in that district. 609 F.3d at 1381. The court disagreed, explaining that there was no evidence, aside from MedIdea’s “uncorroborated contentions,” that its principal place of business was in Texas. *Id.* MedIdea was “attempting to game the system,” said the court, “by artificially seeking to establish venue by sharing office space with another of the trial counsel’s

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<sup>14</sup> See APPX237 ¶ 7 (1,960 Twitter employees); APPX240 ¶ 5 (17,400 Apple employees); APPX245 ¶ 7 (537 Motorola employees); APPX297 ¶ 11 (57 LGE employees).

clients.” *Id.* Accordingly, the court held that MedIdea had “no presence in Texas that should be given weight in the transfer analysis.” *Id.*

As in *Zimmer Holdings*, Summit 6’s presence in this District is “recent, ephemeral, and an artifact of litigation.” 609 F.3d at 1381. Based on Defendants’ investigation, Summit 6 has no employees in Texas at all. Moreover, Summit 6’s attempt to “game the system” by renting virtual office space in Dallas creates no physical presence in this District that should be given weight in the transfer analysis. *Id.* There is no justification for burdening a Wichita Falls jury with a trial on a matter that has no connection to this District. In sum, this factor also weighs in favor of transfer to the Northern District of California, where the alleged inventions and the accused infringing technologies were developed.

**b. The court congestion factor is neutral.**

Another public interest factor evaluates the comparative administrative difficulties due to court congestion in the potential venues—*i.e.*, “whether a trial may be speedier in another court because of its less crowded docket.” *In re Genentech*, 566 F.3d at 1347 (quoting *Gates Learjet Corp. v. Jensen*, 743 F.2d 1325, 1337 (9th Cir. 1984)). To answer this question, “courts commonly consider the Federal Judicial caseload statistics.” *USPG Portfolio Two, LLC v. John Hancock Real Estate Fin., Inc.*, No. 3:10-cv-2466-D, 2011 WL 1103372, at \*5 (N.D. Tex. Mar. 25, 2011). This is the “most speculative” of all the factors, however, because “case-disposition statistics may not always tell the whole story.” *In re Genentech*, 566 F.3d at 1347.

According to the federal judiciary’s most recent caseload statistics, the median time interval from filing to disposition of civil cases terminated in the Northern District of Texas is 6.8 months, whereas the median time in the Northern District of California is 6.4 months. *See* APPX074-APPX075 (U.S. District Courts—Median Time Intervals from Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period Ending March 31, 2013). Because the difference in time is so small, this factor is neutral. *See AllChem Performance Prods., Inc. v. Oreq Corp.*, No. 3:11-cv-3577-D, 2013 WL 180460 (N.D.

Tex. Jan. 17, 2013) (finding this factor neutral where the difference in time to disposition was one month); *USPG Portfolio Two*, 2011 WL 1103372, at \*5 (finding this factor neutral where the difference in time to disposition was 3.9 months).

**c. The Northern District of California is equally familiar with the law governing the case, and there are no conflicts-of-laws issues.**

The final two public interest factors—the familiarity of the forum with the governing law and the avoidance of unnecessary conflicts-of-law issues—are neutral. Both this Court and the Northern District of California are equally capable of applying the law regarding patent infringement. *See In re TS Tech*, 551 F.3d at 1320. Both Districts also participate in the Patent Pilot Program. And Defendants are not aware of any conflicts-of-laws issues.

\* \* \*

For the reasons given above, all four of the Fifth Circuit’s private interest factors weigh strongly in favor of transfer to the Northern District of California, and all of the public interest factors are either neutral or weigh in favor of transfer. Accordingly, the Court should transfer this case to the Northern District of California, a clearly more convenient venue, pursuant to 28 U.S.C. § 1404(a). Many Texas courts, when confronted with a plaintiff that has come to Texas to sue Northern California companies, have reached the same result.<sup>15</sup>

#### **IV. CONCLUSION**

For the reasons given, the Court should transfer this case to the Northern District of California.

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<sup>15</sup> *E.g.*, *Adkins v. Apple Inc.*, No. 3:13-cv-00402, D.I. 55 (S.D. Tex. Apr. 3, 2014); *MemSmart Semiconductor Corp. v. Apple Inc.*, No. 2:13-cv-00518-JRG, D.I. 32 (E.D. Tex. Apr. 21, 2014); *Evolutionary Intelligence, LLC v. Apple Inc.*, No. 6:12-cv-00783, 2013 U.S. Dist. LEXIS 187467 (E.D. Tex. Aug. 27, 2013); *PersonalWeb Techs. LLC v. Apple Inc.*, No. 6:12-cv-00660-LED, D.I. 101 (E.D. Tex. Feb. 12, 2014); *H-W Tech. LLC v. Apple Inc.*, No. 3:12-cv-02580, 2012 U.S. Dist. LEXIS 106118 (N.D. Tex. July 27, 2012); *Adaptix, Inc. v. HTC Corp.*, 937 F. Supp. 2d 867 (E.D. Tex. 2013); *Touchscreen Gestures, LLC v. HTC Corp.*, No. 6:12-cv-00261-MHS, D.I. 17 (E.D. Tex. Mar. 27, 2013); *Hopewell Culture & Design, LLC v. Adobe Sys. Inc.*, No. 2:10-cv-00586-DF, D.I. 139 (E.D. Tex. Jan. 09, 2012).

Dated: June 10, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 10th day of June, 2014, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule 5.1(d). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

*s/ David J. Silbert*

\_\_\_\_\_  
David J. Silbert



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION, HTC AMERICA,  
INC., LG ELECTRONICS INC., LG  
ELECTRONICS USA, INC., LG  
ELECTRONICS MOBILECOMM USA,  
INC., MOTOROLA MOBILITY LLC,  
APPLE INC., and TWITTER, INC.,

Defendants.

Case No. 7:14-cv-00014-O

**APPENDIX TO**

**DEFENDANTS' BRIEF IN SUPPORT OF THEIR MOTION TO TRANSFER TO THE  
NORTHERN DISTRICT OF CALIFORNIA**

<b>No.</b>	<b>Document Description</b>	<b>Page No.</b>
1.	Declaration of Julie Duncan in support of Defendants' Motion to Transfer	APPX001 - 009
2.	Combined Declaration and Power of Attorney for Utility Patent Application for U.S. Patent Application No. 09/357,836 (Exhibit A to Declaration of Julie Duncan)	APPX010 - 016
3.	Press release jointly issued on March 8, 2000, by iPIX and PictureWorks Technology, Inc. (Exhibit B to Declaration of Julie Duncan)	APPX017 - 021
4.	USPTO Patent Assignment Abstract of Title for U.S. Patent No. 6,895,557 to Wood et al. (Exhibit C to Declaration of Julie Duncan)	APPX022 - 026
5.	Press release regarding AdMission from Swiftsure Capital LLC (Exhibit D to Declaration of Julie Duncan)	APPX027 - 028
6.	USPTO Patent Assignment Abstract of Title for U.S. Patent No. 7,765,482 to Wood et al. (Exhibit E to Declaration of Julie Duncan)	APPX029 - 031
7.	AdMission Press Release regarding acquisition by Cobalt (Exhibit F to Declaration of Julie Duncan)	APPX032 - 034

No.	Document Description	Page No.
8.	Delaware Division of Corporations Entity Details on Summit 6 LLC (Exhibit G to Declaration of Julie Duncan)	APPX035 - 036
9.	Wells Fargo Bank, N.A., Substitution of Trustee and Full Reconveyance dated August 30, 2013 (Exhibit H to Declaration of Julie Duncan)	APPX037 - 038
10.	LinkedIn profile of Sarah Pate (Exhibit I to Declaration of Julie Duncan)	APPX039 - 042
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Dated: June 10, 2014

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that on this 10th day of June, 2014, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule 5.1(d). Any other counsel of record will be served by a facsimile transmission and/or first-class mail.

*s/ David J. Silbert* \_\_\_\_\_



**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
WICHITA FALLS DIVISION**

SUMMIT 6 LLC,

Plaintiff,

v.

HTC CORPORATION, HTC AMERICA,  
INC., LG ELECTRONICS INC., LG  
ELECTRONICS USA, INC., LG  
ELECTRONICS MOBILECOMM USA,  
INC., MOTOROLA MOBILITY LLC,  
APPLE INC., and TWITTER, INC.,

Defendants.

Case Action No. 7:14-cv-00014-O

**DECLARATION OF JULIE DUNCAN IN SUPPORT OF DEFENDANTS' MOTION TO  
TRANSFER TO THE NORTHERN DISTRICT OF CALIFORNIA**

I, JULIE DUNCAN, declare as follows:

1. I am an attorney with the law firm of Keker & Van Nest LLP, counsel for Defendant Twitter, Inc. in this proceeding.
2. I am a member in good standing of the State Bar of California, have personal knowledge of the facts set forth in this declaration, and, if called as a witness, could and would testify competently to such facts under oath.
3. I make this Declaration in support of Defendants' Motion to Transfer to the Northern District of California.
4. Attached hereto as Exhibit A is a true and correct copy of the Combined Declaration and Power of Attorney for Utility Patent Application for U.S. Patent Application No. 09/357,836, which led to the issuance of U.S. Patent No. 6,895,557. On page APPX015, Picture Works Technology, Inc.'s address is listed as 649 San Ramon Valley Blvd., Danville, California.
5. Attached hereto as Exhibit B is a true and correct copy of a press release jointly issued on March 8, 2000, by iPIX and PictureWorks Technology, Inc., which was attached as Exhibit 99.1 to Internet Picture Corporation's March 14, 2000 Form 8-K, and is available at <http://www.sec.gov/Archives/edgar/data/1088022/000095014400003143/0000950144-00-003143.txt>. Page APPX021 indicates that iPIX was co-headquartered in Oak Ridge, Tennessee, and in Palo Alto, California.
6. Attached hereto as Exhibit C is a true and correct copy of the Patent Assignment Abstract of Title for U.S. Patent No. 6,895,557, last accessed on April 25, 2014, via the following link:  
<http://assignments.uspto.gov/assignments/q?db=pat&qt=pat&reel=&frame=&pat=6895557&pub=&asnri=&asne=&asnei=&asns>.
7. Attached hereto as Exhibit D is a true and correct copy of a webpage hosted by Swiftsure Capital, last accessed on April 4, 2014, via the following link:  
<http://www.swiftsurecapital.com/admission.html>.

8. Attached hereto as Exhibit E is a true and correct copy of the Patent Assignment Abstract of Title for U.S. Patent No. 7,765,482, last accessed on April 1, 2014, via the following link:

<http://assignments.uspto.gov/assignments/q?db=pat&qt=pat&reel=&frame=&pat=7765482&pub=&asnri=&asne=&asnei=&asns>.

9. Attached hereto as Exhibit F is a true and correct copy of a press release dated May 7, 2008, obtained from the Internet Archive's October 20, 2008 entry for

<http://admission.net/cobalt/>. The webpage is also available via the following link:

<http://web.archive.org/web/20081020053818/http://admission.net/cobalt/>.

10. Attached hereto as Exhibit G is a true and correct copy of the Entity Details on Summit 6 LLC, obtained from the website of the Delaware Division of Corporations on April 21, 2014.

11. Attached hereto as Exhibit H is a true and correct copy of the Substitution of Trustee and Full Reconveyance that Wells Fargo Bank, N.A., recorded with the County Clerk-Recorder of Contra Costa County, California, on August 30, 2013. The first paragraph indicates that Sarah F. Pate and David V. Pate executed the relevant Deed of Trust, and the address listed on the top left-hand corner indicates that, at least as of August 30, 2013, they resided in Alamo, CA 94507.

12. Attached hereto as Exhibit I is a true and correct copy of Sarah Pate's LinkedIn profile, last accessed on May 27, 2014, via the following link:

[https://www.linkedin.com/profile/view?id=8529028&authType=NAME\\_SEARCH&authToken=adqC&locale=en\\_US&srchid=526176331398208945112&srchindex%E2%80%A6](https://www.linkedin.com/profile/view?id=8529028&authType=NAME_SEARCH&authToken=adqC&locale=en_US&srchid=526176331398208945112&srchindex%E2%80%A6). Ms. Pate's profile indicates that she resides in the "San Francisco Bay Area."

13. Attached hereto as Exhibit J is a true and correct copy of a Full Reconveyance recorded with the County Clerk-Recorder of Contra Costa County, California, on October 17, 2013.

14. Attached hereto as Exhibit K is a true and correct copy of a Full Reconveyance recorded with the County Clerk-Recorder of Contra Costa County, California, on July 16, 2013. The address in the upper left indicates that, at least as of July 16, 2013, Lisa T. Wood resided in Danville, California.

15. Attached hereto as Exhibit L is a true and correct copy of Scott F. Wilson's biography as hosted on Swiftsure Capital's website, last accessed on May 23, 2014, via the following link: <http://www.swiftsurecapital.com/scott-f-wilson.html>.

16. Attached hereto as Exhibit M is a true and correct copy of Davinci Virtual Office Solutions' webpage advertising its virtual office at 4925 Greenville Ave., Dallas, Texas, last accessed on May 23, 2014, via the following link:  
<http://www.davincivirtual.com/loc/us/texas/dallas-virtual-offices/facility-664>.

17. Attached hereto as Exhibit N is a true and correct copy of Davinci Virtual Office Solutions' "Contact Us" webpage, last accessed on April 25, 2014, via the following link:  
<http://www.davincivirtual.com/contact-us?s=664>. Immediately above the "Comments" box, the webpage contains a drop-down menu indicating that Davinci Virtual Office Solutions has a virtual office in Suite 200 of the building located at 4925 Greenville Ave., Dallas, Texas.

18. Attached hereto as Exhibit O is a true and correct copy of a webpage last accessed on May 23, 2014, via the following link: <http://www.yellowpages.com/dallas-tx/mip/attorneys-at-law-rick-weaver-personal-injury-law-firm-480112070>. This webpage advertises 4925 Greenville Ave., Suite 200, Dallas, TX 75206, as the location of a personal-injury law firm.

19. Attached hereto as Exhibit P is a true and correct copy of a webpage last accessed on May 23, 2014, via the following link: <http://leforcelaw.com/contact-us/>. The webpage advertises 4925 Greenville Ave., Suite 200, Dallas, TX 75206, as the location of LeForce Law, PLLC.

20. Attached hereto as Exhibit Q is a true and correct copy of a webpage last accessed on May 27, 2014, via the following link: <http://dgs.org/memberships/applications>. The webpage

advertises 4925 Greenville Ave., Suite 200, Dallas, TX 75206, as the location of the Dallas Geological Society.

21. Attached hereto as Exhibit R is a true and correct copy of a webpage last accessed on April 4, 2014, via the following link: <http://craiglickmanlaw.com/map>. The webpage advertises 4925 Greenville Ave., Suite 200, Dallas, TX 75206, as the location of the law offices of S. Craig Glickman.

22. Attached hereto as Exhibit S is a true and correct copy of a webpage last accessed on April 4, 2014, via the following link: <http://www.colesfirm.com/ContactUs.html>. The webpage advertises 4925 Greenville Ave., Suite 200, Dallas, TX 75206, as the location of The Coles Firm.

23. Attached hereto as Exhibit T is a true and correct copy of a webpage last accessed on May 27, 2014, via the following link: <http://www.rothrocklawfirm.com/>. The webpage advertises 4925 Greenville Ave., Suite 200, Dallas, TX 75206, as the location of Rothrock Law Firm PL.

24. Attached hereto as Exhibit U is a true and correct copy of Table C-5, U.S. District Courts—Median Time Intervals from Filing to Disposition of Civil Cases Terminated, by District and Method of Disposition, During the 12-Month Period ending March 31, 2014. This PDF is also available via the following link:  
<http://www.uscourts.gov/Viewer.aspx?doc=/uscourts/Statistics/FederalJudicialCaseloadStatistics/2013/tables/C05Mar13.pdf>.

25. Attached hereto as Exhibit V is a true and correct copy of a report from the website <http://maps.google.com>. The report indicates that the driving distance from Bellevue, Washington, to San Francisco, California, is 809 miles, and that a direct flight between the two cities is 1 hour and 55 minutes long.

26. Attached hereto as Exhibit W is a true and correct copy of a report from the website <http://maps.google.com>. The report indicates that the driving distance from Bellevue, Washington, to Wichita Falls, Texas, is 1,960 miles.

27. Attached hereto as Exhibit X is a true and correct copy of an excerpt from the March 29, 2013 trial transcript in *Summit 6 LLC v. Research in Motion Corp. et al.*, Cv. No. 3:11-cv-00367-O, which was included in the Appendix to Defendant Samsung's Brief in Support of Its Opposition to Plaintiff Summit 6 LLC's Motion for Judgment As a Matter of Law That There Can Be No Inequitable Conduct Based on the Jury's Verdict that the Patent In Suit is Valid Over the Point2 Reference, Docket # 574. The transcript indicates that Sarah F. Pate testified that Peter Yoakum had investigated the Point2 reference with help from two attorneys from Fenwick & West.

28. Attached hereto as Exhibit Y is a true and correct copy of an excerpt from the April 3, 2013 trial transcript in *Summit 6 LLC v. Research in Motion Corp. et al.*, Cv. No. 3:11-cv-00367-O, which was included in the Appendix to Defendants Samsung Electronics Co., Ltd. and Samsung Telecommunications America, LLC's Brief in Support of Their Opposition to Plaintiff Summit 6 LLC's Motion for Judgment As a Matter of Law That There Can Be No Inequitable Conduct Based on the Jury's Verdict that the Patent In Suit is Valid Over the Point2 Reference, Docket # 574. The transcript indicates that Peter Yoakum testified, via video deposition, that he had performed due diligence on the Point2 reference with help from two attorneys from Fenwick & West and that, as of April 13, 2006, he believed that the early disclosure of the Point2 Photo Upload Facility could "seriously impair" value of the '557 patent.

29. Attached hereto as Exhibit Z is a true and correct copy of an email from Peter Yoakum dated 04/13/2006, which was submitted as Defendants' Exhibit 2029 in *Summit 6 LLC v. Research in Motion Corp. et al.*, Cv. No. 3:11-cv-00367-O, and which was included in the Appendix to Defendants Samsung Electronics Co., Ltd. and Samsung Telecommunications America, LLC's Brief in Support of Their Renewed Motion for Judgment As a Matter of Law No. 3: Invalidity, Docket # 621. In paragraph 3 of the email, Peter Yoakum indicates that he told individuals from Point2 that "Point2's early disclosure . . . could seriously impair the value of several commercially important features contained in 557 [patent's] claims" and that Summit 6

(then AdMission) “may be obligated to spend more \$ to improve or resuscitate [its] own patent(s) as a result of the Point2 disclosure.”

30. Attached hereto as Exhibit AA is a true and correct copy of the Final Office Action mailed on May 21, 2014, in *ex parte* reexamination proceeding No. 90/012,987.

31. Attached hereto as Exhibit BB is a true and correct copy of an unofficial copy of the Deed of Trust recorded on April 8, 2014, with the Auditor of Kitsap County, Washington, and signed by Peter Yoakum and Julie Yoakum on April 4, 2014. A PDF of this document is also available via the following link:

<http://kcwaimg.co.kitsap.wa.us/recorder/eagleweb/viewAttachment.jsp?docName=201404080171&id=DOC460S1549.A0&parent=DOC460S1549>.

32. Attached hereto as Exhibit CC is a true and correct copy of a report from the website <http://maps.google.com>. The report indicates that the driving distance from San Diego, California, to San Francisco, California, is 501 miles, and that a direct flight between the two cities is 1 hour and 25 minutes long.

33. Attached hereto as Exhibit DD is a true and correct copy of a report from public records search engine Peoplesmart. The report lists Scott Lewis’s most recent address as 47 W. Village Circle, Midway, Utah.

34. Attached hereto as Exhibit EE is a true and correct copy of Gordon Gardiner’s biography on Swiftsure Capital’s website, last accessed on June 5, 2014, via the following link: <http://www.swiftsurecapital.com/gordon-a-gardiner.html>.

35. Attached hereto as Exhibit FF is a true and correct copy of a report from the website <http://maps.google.com>. The report indicates that the driving distance from Midway, Utah, to San Francisco, California, is 707 miles, and that a direct flight between San Francisco and Salt Lake City is two hours long.

36. Attached hereto as Exhibit GG is a true and correct copy of a report from the website <http://maps.google.com>. The report indicates that the driving distance from Midway, Utah, to Wichita Falls, Texas, is 1,086 miles.

37. Attached hereto as Exhibit HH is a true and correct copy of the document entitled “*Inter Parte* [sic] Reexamination Filing Data – Septeber [sic] 30, 2013,” published by the United States Patent and Trademark Office. A PDF of this document is also available at: [http://www.uspto.gov/patents/stats/inter\\_parte\\_historical\\_stats\\_roll\\_up\\_EOY2013.pdf](http://www.uspto.gov/patents/stats/inter_parte_historical_stats_roll_up_EOY2013.pdf).

38. Attached hereto as Exhibit II is a true and correct copy of the document entitled “*Ex Parte* Reexamination Filing Data – September 30, 2013,” published by the United States Patent and Trademark Office. A PDF of this document is also available at: [http://www.uspto.gov/patents/stats/ex\\_parte\\_historical\\_stats\\_roll\\_up\\_EOY2013.pdf](http://www.uspto.gov/patents/stats/ex_parte_historical_stats_roll_up_EOY2013.pdf).

39. Attached hereto as Exhibit JJ is a true and correct copy of an Orbitz estimate of travel times and costs for June 9, 2014 flights from San Diego International Airport ("SAN") to San Francisco International Airport ("SFO"), sorted by quickest route.

40. Attached hereto as Exhibit KK is a true and correct copy of an Orbitz estimate of travel times and costs for June 9, 2014 flights from San Diego International Airport ("SAN") to Wichita Falls Municipal Airport ("SPS"), sorted by quickest route.

41. Attached hereto as Exhibit LL is a true and correct copy of an Orbitz estimate of June 9, 2014 travel times from Seoul (“ICN” and/or “GMP”) to San Francisco International Airport ("SFO"), sorted by quickest route.

42. Attached hereto as Exhibit MM is a true and correct copy of an Orbitz estimate of June 9, 2014 travel times from Seoul ("ICN" and/or "GMP") to Wichita Falls Municipal Airport ("SPS"), sorted by quickest route.

43. Attached hereto as Exhibit NN is a true and correct copy of a printout from Geobytes.com calculating the distance between Seoul, South Korea, and San Francisco, California.

44. Attached hereto as Exhibit OO is a true and correct copy of a printout from Geobytes.com calculating the distance between Seoul, South Korea, and Wichita Falls, Texas.



45. Attached hereto as Exhibit PP is a true and correct copy of a printout from Geobytes.com calculating the distance between San Diego, California, and San Francisco, California.

46. Attached hereto as Exhibit QQ is a true and correct copy of a printout from Geobytes.com calculating the distance between San Francisco, California, and Wichita Falls, Texas.

47. Attached hereto as Exhibit RR is a true and correct copy of a webpage hosted by Samsung Telecommunications America and entitled "Our Company," available at: <http://www.samsungtelecom.com/life-at-samsung/our-company.asp>.

48. Attached hereto as Exhibit SS is a true and correct copy of a webpage hosted by Blackberry, available at: <http://ca.blackberry.com/company/about-us/contact.html>.

49. Attached hereto as Exhibit TT is a true and correct copy of a webpage hosted by the Wichita Falls Municipal Airport, available at: <http://flywichitafalls.net/flights-reservations/>.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed this ninth day of June, 2014, at San Francisco, California.

/s/ Julie Duncan

JULIE DUNCAN

# Exhibit A

**COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR UTILITY PATENT APPLICATION**Attorney's Docket No.  
032374-003

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I BELIEVE I AM THE ORIGINAL, FIRST AND SOLE INVENTOR (if only one name is listed below) OR AN  
ORIGINAL, FIRST AND JOINT INVENTOR (if more than one name is listed below) OF THE SUBJECT MATTER  
WHICH IS CLAIMED AND FOR WHICH A PATENT IS SOUGHT ON THE INVENTION ENTITLED:WEB-BASED MEDIA SUBMISSION TOOL

the specification of which

(check one)

☒ is attached hereto;☐ was filed on \_\_\_\_\_ as

Application No. \_\_\_\_\_

and was amended on \_\_\_\_\_;  
(if applicable)I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION,  
INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE;I ACKNOWLEDGE THE DUTY TO DISCLOSE TO THE OFFICE ALL INFORMATION KNOWN TO ME TO BE  
MATERIAL TO PATENTABILITY AS DEFINED IN TITLE 37, CODE OF FEDERAL REGULATIONS, Sec. 1.56  
(as amended effective March 16, 1992);I do not know and do not believe the said invention was ever known or used in the United States of America before  
my or our invention thereof, or patented or described in any printed publication in any country before my or our  
invention thereof or more than one year prior to said application; that said invention was not in public use or on sale  
in the United States of America more than one year prior to said application; that said invention has not been patented  
or made the subject of an inventor's certificate issued before the date of said application in any country foreign to the  
United States of America on any application filed by me or my legal representatives or assigns more than twelve  
months prior to said application;I hereby claim foreign priority benefits under Title 35, United States Code Sec. 119 and/or Sec. 365 of any foreign  
application(s) for patent or inventor's certificate as indicated below and have also identified below any foreign  
application for patent or inventor's certificate on this invention having a filing date before that of the application(s) on  
which priority is claimed:

07/09/1999 13:49

3258554355

JAMES JOHN SWICKER

FAX NO. 8338934

P. 05

COMBINED DECLARATION AND POWER OF ATTORNEY			Attorney's Docket No. 032374-003																																																																															
COUNTRY/INTERNATIONAL	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED																																																																															
			YES_ NO_																																																																															
			YES_ NO_																																																																															
<p>I hereby appoint the following attorneys and agent(s) to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, prosecute and to transact all business in connection with international applications directed to said invention:</p> <table border="0"> <tbody> <tr> <td>William L. Mathis</td> <td>17,337</td> <td>George A. Ilovanc, Jr.</td> <td>28,223</td> <td>Peter K. Skiff</td> <td>31,917</td> </tr> <tr> <td>Peter H. Smolka</td> <td>15,013</td> <td>James A. LaBarre</td> <td>28,632</td> <td>Richard J. McGrath</td> <td>29,193</td> </tr> <tr> <td>Robert S. Swecker</td> <td>19,885</td> <td>B. Joseph Gess</td> <td>28,510</td> <td>Matthew L. Schneider</td> <td>32,814</td> </tr> <tr> <td>Platon N. Mandros</td> <td>22,124</td> <td>R. Danny Huntington</td> <td>27,903</td> <td>Michael G. Savage</td> <td>32,596</td> </tr> <tr> <td>Benton S. Duffin, Jr.</td> <td>22,030</td> <td>Eric H. Weisblatt</td> <td>30,505</td> <td>Gerald F. Swiss</td> <td>30,113</td> </tr> <tr> <td>Norman H. Stepano</td> <td>22,716</td> <td>James W. Peterson</td> <td>26,057</td> <td>Michael J. Ure</td> <td>32,089</td> </tr> <tr> <td>Ronald L. Grudzicki</td> <td>24,970</td> <td>Terawa Stanek Raz</td> <td>30,427</td> <td>Charles P. Wieland III</td> <td>33,096</td> </tr> <tr> <td>Frederick G. Michaud, Jr.</td> <td>26,003</td> <td>Robert E. Krebs</td> <td>25,883</td> <td>Bruce T. Wipder</td> <td>33,813</td> </tr> <tr> <td>Alan E. Knepeck</td> <td>25,813</td> <td>William C. Rowland</td> <td>30,888</td> <td>Todd R. Walters</td> <td>34,040</td> </tr> <tr> <td>Regis E. Slatter</td> <td>26,999</td> <td>T. Gene Dillahunty</td> <td>25,423</td> <td>Ronni S. Jillions</td> <td>31,979</td> </tr> <tr> <td>Samuel C. Miller, III</td> <td>27,360</td> <td>Patrick C. Keane</td> <td>32,858</td> <td>Harold R. Brown III</td> <td>36,341</td> </tr> <tr> <td>Ralph L. Freeland, Jr.</td> <td>16,110</td> <td>Bruce J. Boggs, Jr.</td> <td>32,344</td> <td>Allen R. Baum</td> <td>36,086</td> </tr> <tr> <td>Robert G. Mukai</td> <td>28,531</td> <td>William H. Benz</td> <td>25,952</td> <td>Steven M. de Bois</td> <td>35,023</td> </tr> </tbody> </table>					William L. Mathis	17,337	George A. Ilovanc, Jr.	28,223	Peter K. Skiff	31,917	Peter H. Smolka	15,013	James A. LaBarre	28,632	Richard J. McGrath	29,193	Robert S. Swecker	19,885	B. Joseph Gess	28,510	Matthew L. Schneider	32,814	Platon N. Mandros	22,124	R. Danny Huntington	27,903	Michael G. Savage	32,596	Benton S. Duffin, Jr.	22,030	Eric H. Weisblatt	30,505	Gerald F. Swiss	30,113	Norman H. Stepano	22,716	James W. Peterson	26,057	Michael J. Ure	32,089	Ronald L. Grudzicki	24,970	Terawa Stanek Raz	30,427	Charles P. Wieland III	33,096	Frederick G. Michaud, Jr.	26,003	Robert E. Krebs	25,883	Bruce T. Wipder	33,813	Alan E. Knepeck	25,813	William C. Rowland	30,888	Todd R. Walters	34,040	Regis E. Slatter	26,999	T. Gene Dillahunty	25,423	Ronni S. Jillions	31,979	Samuel C. Miller, III	27,360	Patrick C. Keane	32,858	Harold R. Brown III	36,341	Ralph L. Freeland, Jr.	16,110	Bruce J. Boggs, Jr.	32,344	Allen R. Baum	36,086	Robert G. Mukai	28,531	William H. Benz	25,952	Steven M. de Bois	35,023
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<p>Address all correspondence to: Michael J. Ure, Esq. BURNS, DOANE, SWICKER &amp; MATIUS, L.L.P. P.O. Box 1404 Alexandria, Virginia 22313-1404</p>																																																																																		
<p>Address all telephone calls to: <u>Michael J. Ure, Esq.</u> at (650) 854-7400.</p>																																																																																		
<p>I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.</p>																																																																																		
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Scott M. Lewis		<i>Scott M. Lewis</i>		7-9-99																																																																														
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2316 Corona Court, Berkeley, California 94708		USA																																																																																
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Sent By Case: 15-101 Document: 2-2 Filed: 06/10/14 Page: 13 of 102 PageID: 1099  
 JOHN SWECKER FAX NO. 651-8834 P. 04

**COMBINED DECLARATION AND POWER OF ATTORNEY  
FOR UTILITY PATENT APPLICATION**

Attorney's Docket No.  
032374-003

As a below-named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name;

I BELIEVE I AM THE ORIGINAL, FIRST AND SOLE INVENTOR (if only one name is listed below) OR AN ORIGINAL, FIRST AND JOINT INVENTOR (if more than one name is listed below) OF THE SUBJECT MATTER WHICH IS CLAIMED AND FOR WHICH A PATENT IS SOUGHT ON THE INVENTION ENTITLED:

WEB-BASED MEDIA SUBMISSION TOOL

the specification of which

(check one)

☒ is attached hereto;

☐ was filed on \_\_\_\_\_ as

Application No. \_\_\_\_\_

and was amended on \_\_\_\_\_;  
(if applicable)

I HAVE REVIEWED AND UNDERSTAND THE CONTENTS OF THE ABOVE-IDENTIFIED SPECIFICATION, INCLUDING THE CLAIMS, AS AMENDED BY ANY AMENDMENT REFERRED TO ABOVE;

I ACKNOWLEDGE THE DUTY TO DISCLOSE TO THE OFFICE ALL INFORMATION KNOWN TO ME TO BE MATERIAL TO PATENTABILITY AS DEFINED IN TITLE 37, CODE OF FEDERAL REGULATIONS, Sec. 1.56 (as amended effective March 16, 1992);

I do not know and do not believe the said invention was ever known or used in the United States of America before my or our invention thereof, or patented or described in any printed publication in any country before my or our invention thereof or more than one year prior to said application; that said invention was not in public use or on sale in the United States of America more than one year prior to said application; that said invention has not been patented or made the subject of an inventor's certificate issued before the date of said application in any country foreign to the United States of America on any application filed by me or my legal representatives or assigns more than twelve months prior to said application;

I hereby claim foreign priority benefits under Title 35, United States Code Sec. 119 and/or Sec. 365 of any foreign application(s) for patent or inventor's certificate as indicated below and have also identified below any foreign application for patent or inventor's certificate on this invention having a filing date before that of the application(s) on which priority is claimed:

Sent By: Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 14 of 102 Page 1100

From: Robin Fried To: Kathy

Date: 7/15/99 Time: 3:48:42 PM

Page 2 of 3

JUL-15-99 THU 12:54 PM BURNS DOAN SWECKER

FAX NO. 8502338834

P. 03

COMBINED DECLARATION AND POWER OF ATTORNEY			Attorney's Docket No. 032374-003	
COUNTRY/INTERNATIONAL	APPLICATION NUMBER	DATE OF FILING (day, month, year)	PRIORITY CLAIMED	
			YES NO	
			YES NO	
I hereby appoint the following attorneys and agent(s) to prosecute said application and to transact all business in the Patent and Trademark Office connected therewith and to file, prosecute and to transact all business in connection with international applications directed to said invention:				
William L. Mathis	17,337	George A. Kovacec, Jr.	28,323	Peter K. Skiff
Peter H. Smolka	15,912	James A. Lobbins	28,622	Richard J. McGrath
Robert S. Swecker	19,485	R. Joseph Goss	28,510	Matthew L. Schneider
Thomas W. Manning	22,124	R. Danny Hurlington	27,901	Michael G. Savage
Burton S. Duffett, Jr.	22,638	Eric H. Weisblum	30,303	Gerold F. Swin
Norman H. Treppe	22,716	James W. Peterson	26,037	Michael J. Ure
Bernard L. Grunzweid	24,970	Thomas Stank Rec	28,627	Charles P. Wieland III
Frederick G. Miltzard, Jr.	26,003	Robert R. Krebs	25,885	Rocco T. Wieder
Alan E. Koppel	23,113	William C. Rowland	28,888	Todd R. Walters
Regis B. Blutter	26,999	T. Gene Dillshurst	21,423	Kathil S. Julliam
Samuel C. Miller, III	27,360	Patrick C. Keane	31,838	Barold L. Brown III
Ralph L. Friedman, Jr.	16,110	Bruce J. Briggs, Jr.	31,344	Allen R. Brown
Robert O. Mutai	28,331	William H. Bena	25,952	Bryan M. de Nola
and: Susan E. Heminger				
Address all correspondence to: Michael J. Ure, Esq. BURNS, DOANS, SWECKER & MATHIS, L.L.P. P.O. Box 1404 Alexandria, Virginia 22313-1404				
Address all telephone calls to: Michael J. Ure, Esq. at (650) 854-7400.				
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.				
FULL NAME OF SOLE OR FIRST INVENTOR		SIGNATURE		DATE
Lisa T. Wurst				
RESIDENCE		CITIZENSHIP		
One Woodside Court, Danville, California 94506		USA		
POST OFFICE ADDRESS				
Same As Above				
FULL NAME OF SECOND JOINT INVENTOR, IF ANY		SIGNATURE		DATE
Scott M. Lewis				
RESIDENCE		CITIZENSHIP		
114 Squirrel Ridge Way, Danville, California 94506		USA		
POST OFFICE ADDRESS				
Same As Above				
FULL NAME OF THIRD JOINT INVENTOR, IF ANY		SIGNATURE		DATE
Robin T. Fried				7/15/99
RESIDENCE		CITIZENSHIP		
2316 Corona Court, Berkeley, California 94706		USA		
POST OFFICE ADDRESS				
Same As Above				

Patent  
Attorney's Docket No. 032374-003

Applicant or Patentee: Lisa T. Wood, Scott M. Lewis, and Robin T. Fried  
Application or Patent No.: \_\_\_\_\_  
Filed or Issued: \_\_\_\_\_  
For: WEB-BASED MEDIA SUBMISSION TOOL

**VERIFIED STATEMENT (DECLARATION) CLAIMING SMALL ENTITY STATUS  
(37 C.F.R. § 1.9(f) AND 1.27(c)) - SMALL BUSINESS CONCERN**

I hereby declare that I am

- ☐ the owner of the small business concern identified below:  
☒ an official of the small business concern empowered to act on behalf of the concern identified below:

NAME OF CONCERN PictureWorks Technology, Inc.  
ADDRESS OF CONCERN 649 San Ramon Valley Blvd., Danville, California 94526

I hereby declare that the above-identified small business concern qualifies as a small business concern as defined in 13 C.F.R. § 1.21 for purposes of paying reduced fees under Sections 41(a) and 41(b) of Title 35, United States Code, in that the number of employees of the concern, including those of its affiliates, does not exceed 500 persons. For purposes of this statement, (1) the number of employees of the business concern is the average, over the previous fiscal year of the concern, of the persons employed on a full-time, part-time, or temporary basis during each of the pay periods of the fiscal year, and (2) concerns are affiliates of each other when either, directly or indirectly, one concern controls or has the power to control the other, or a third party or parties controls or has the power to control both.

I hereby declare that rights under contract or law have been conveyed to and remain with the small business concern identified above with regard to the invention entitled Web-Based Media Submission Tool by inventor(s) Lisa T. Wood, Scott M. Lewis, and Robin T. Fried described in

- ☒ the specification filed herewith  
☐ Application No. \_\_\_\_\_, filed \_\_\_\_\_  
☐ Patent No. \_\_\_\_\_, issued \_\_\_\_\_

If the rights held by the above-identified small business concern are not exclusive, each individual, concern, or organization having rights to the invention is listed below,\* and no rights to the invention are held by any person, other than the inventor, who would not qualify as an independent inventor under 37 C.F.R. § 1.9(c), or by any concern that would not qualify as either a small business concern under 37 C.F.R. § 1.9(d) or a nonprofit organization under 37 C.F.R. § 1.9(e).

\*NOTE: Separate verified statements are required from each named person, concern, or organization having rights to the invention averring to their status as small entities. (37 C.F.R. § 1.27.)

Application No. \_\_\_\_\_  
Attorney's Docket No. 032374-003

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ Individual ☐ small business concern ☐ nonprofit organization

NAME \_\_\_\_\_  
ADDRESS \_\_\_\_\_  
☐ Individual ☐ small business concern ☐ nonprofit organization

I acknowledge the duty to file, in this application or patent, notification of any change in status resulting in loss of entitlement to small entity status prior to paying, or at the time of paying, the earlier of the issue fee and any maintenance fee due after the date on which status as a small entity is no longer appropriate. (37 C.F.R. § 1.28(b).)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code; and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this verified statement is directed.

NAME OF PERSON SIGNING Lisa T. Wood  
TITLE OF PERSON OTHER THAN OWNER Vice President, <sup>Engineering</sup> New Business Development & Marketing  
ADDRESS OF PERSON SIGNING 649 San Ramon Valley Blvd., Danville, California 94526

SIGNATURE *Lisa T. Wood* DATE 7-2-99

07/09/1999 13:49 9258554355 FAX NO. 87 338934 P. 03



# **Exhibit B**

<TEXT>

<PAGE> 1

Editorial Contacts:

EXHIBIT 99.1

Corey Cutler/Peter Molineaux

Media: Eileen King/Emily Brunner

Morgen-Walke Associates, Inc.

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Ed Lewis

iPIX

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Stu Roberson

PictureWorks Technology

(925) 855-2001 x181

sroberson@pictureworks.com

IPIX TO ACQUIRE PICTUREWORKS TECHNOLOGY, INC. TO FORM END-  
TO-END INTERNET IMAGING SOLUTIONS COMPANY

\$175 Million Acquisition to Create Industry Leader in B2B and B2C Visual  
Content Infrastructure--Building the "Imaging Infranet" to Drive E-commerce

OAK RIDGE, Tenn. and PALO ALTO, Calif. (3/8/00)--Internet Pictures Corporation (Nasdaq: IPIX, "iPIX"), a leader in visual content infrastructure solutions for the Internet, and PictureWorks Technology, a leader in digital media solutions which enable end-users to easily publish still photos and other rich media content to the Web, announced today that they have signed a definitive agreement for iPIX to acquire PictureWorks in a stock-for-stock transaction valued at approximately \$175 million. The combined companies and their technologies will create the first "Imaging Infranet," an extensive global infrastructure of services, networks, and content delivery systems for visual content. This combination of robust infrastructure and services will make iPIX the choice for one-stop Internet imaging solutions in the real estate, e-retail, travel, publishing, entertainment, consumer online auctions, architecture/engineering/construction and insurance markets.

Upon closing, this acquisition will position iPIX as the only end-to-end provider of visual content solutions including:

- Full-service virtual tours provided by iPIX's photographer network
- Self-service 360 by 360 degree virtual tours using iPIX camera kits
- Instant publishing of still photos to Web sites using PictureWorks' Rimfire solution
- iPIX interactive WebCams
- iPIX Movies
- Transformation and enhancement (watermarking, annotation, PhotoMovies(TM), SurroundView(TM), etc.) of user-supplied images using Rimfire
- Visual content hosting and distribution to leading Web sites across the Internet

"By combining with PictureWorks, we will create the leading provider of visual

content solutions for e-commerce applications on the Internet," said Jim Phillips, chairman and CEO of iPIX. "PictureWorks' industry leading technology and proven track record, together with iPIX's innovative technology and global visual content infrastructure, will create a winning and complementary imaging solution. This merger will solidify iPIX's position as the leader in imaging for the Internet and will provide our B2B and B2C customers with the most comprehensive, end-to-end content acquisition and delivery solution in the market today."

Under terms of the agreement, iPIX will acquire all of the outstanding shares of PictureWorks stock in exchange for iPIX common stock. iPIX will issue 5,367,670 shares of iPIX Common Stock to the PictureWorks stockholders. The agreement provides that if the average closing price of iPIX Common

<PAGE> 2

Stock is more than \$37.06, then the PictureWorks stockholders will receive 4,668,106 shares of iPIX Common Stock, and if the average price of iPIX Common Stock is less than \$27.39, then the PictureWorks stockholders will receive 6,240,981 shares of iPIX Common Stock. The merger will be effected on a tax-free basis to iPIX stockholders and will be accounted for as a purchase. The acquisition is subject to certain closing conditions and is expected to close during March 2000.

The combined companies will continue to extend their highly scalable 'Imaging Infranet' solutions by leveraging relationships with Akamai and Exodus, and will support emerging streaming media formats and all leading digital camera manufacturers including Kodak, Nikon, Olympus, Epson, and Sony. The companies will have over 1,000 customers, including AOL, Homestore.com, Discovery.com, Microsoft, CNN, General Motors, IBM, NBC, Travelocity, Disney, Viacom, ADP, Auctions.com and Polaroid plus a network of more than 500 iPIX photographers covering over 5,500 cities around the globe.

#### NEW MARKET OPPORTUNITIES IN AUCTIONS, A/E/C AND INSURANCE

iPIX, which provides imaging solutions for e-commerce applications, will combine its visual content infrastructure with PictureWorks' Rimfire Internet media services and infrastructure. PictureWorks' Rimfire services will enable iPIX to capture media including still photos, sound, audio and video directly from end-users and host and distribute it using iPIX's back-end content distribution and management system. This acquisition allows iPIX to enhance its offering to the real estate industry as well as new markets requiring large-scale visual content management including consumer online auctions, architecture/engineering/construction and insurance.

"PictureWorks and iPIX are rapidly building market share and penetration of their Internet imaging solutions," said Alexis Gerard, president of digital imaging advisors, Future Image. "The combined services and visual content infrastructure of the two companies provides a complete turnkey Internet imaging solution for numerous markets, including real estate, insurance, travel, and auctions. That includes a full service photographer network, and do-it-yourself support for the over ten million digital camera owners using the Internet today. This is a combination that will be hard for competitors to match."

By acquiring PictureWorks, iPIX believes it will be best positioned in the market to offer B2B and B2C imaging Infranet solutions to leading e-commerce

providers. With the addition of PictureWorks' services and infrastructure to iPIX's visual content infrastructure, iPIX adds easy-to-use media collection and transformation services that allow e-commerce sites to deploy large-scale online visual content. Using a content management solution from the combined companies, consumers can drag and drop still photos and other user-created media including sound, audio and video into a Web based client/server solution that collects, formats and distributes the data.

"By joining forces with an organization of iPIX's caliber, we can truly empower businesses with the broadest range of visual content solutions and infrastructure available. Our combined company will create the de facto standard for B2B and B2C imaging technologies and services for the Internet," said Don Strickland, CEO of PictureWorks Technologies. "The benefit to our combined and future customers is one-stop outsourcing of all imaging requirements for the Internet."

This acquisition allows iPIX to enhance its offering to the real estate industry with still photo submission, management and distribution in addition to the iPIX Virtual Tour. Homestore.com recently selected PictureWorks' Rimfire solution to provide "Instant Photo Submission" for adding multiple photos to real estate listings. Using Rimfire, real estate professionals have the ability to instantly and easily enhance their property listings with additional photos. It allows the simple drag and drop of images from any digital camera, scanner, CD, or floppy disk directly into the Rimfire-enabled Web page. Rimfire automatically previews, resizes and formats the photos, saving time for the user.

#### THE 'IMAGING INFRANET'

"With the acquisition of PictureWorks, iPIX is positioned to be a leading provider of B2B imaging for the Internet," said Kristy Holch, principal, InfoTrends Research Group. "The addition of Rimfire to iPIX's end-to-end visual content infrastructure will provide businesses robust, easy-to-use and highly scaleable imaging solutions for e-commerce applications."

<PAGE> 3

The combined companies offer an end-to-end visual content infrastructure:

- - Visual Content Capture and Processing - Meeting business and consumer demand for full-service and do-it-yourself imaging solutions, the combined company provides the easiest to use content creation tools and applications in addition to a global network of photographers covering over 5,500 cities around the world and full service image processing centers.
- - Visual Content Management and Hosting - Integrating PictureWorks Rimfire, an industry leading drag-and-drop media submission, management and delivery infrastructure with iPIX's advanced visual content hosting solution provides businesses and consumers a high performance and scaleable digital media management infrastructure.
- - Visual Content Distribution - Offering the broadest range of end-to-end visual content solutions, iPIX seamlessly distributes visual content to many of the Internet's most trafficked sites and iPIX View Always technology enables users to view images on multiple platforms from personal computers to wireless, handheld devices.

The company's headquarters will remain in Oak Ridge, Tennessee and Palo Alto, California, and will include offices in Atlanta, Chicago, Danville, London, Los Angeles, New York, and Tokyo.

#### ABOUT IPIX

iPIX (NASDAQ: IPIX) provides global visual content infrastructure solutions for leading e-commerce and new media Web sites. The iPIX end-to-end solutions enable the creation, hosting and distribution of rich visual content to thousands of Internet sites. A broad array of industries, including real estate, e-retail, automotive, travel, publishing and entertainment are capitalizing on iPIX visual content to give viewers more information, more interaction and a richer online experience. The company is headquartered in Oak Ridge, Tennessee with co-headquarters in Palo Alto, California

#### ABOUT PICTUREWORKS TECHNOLOGY

PictureWorks Technology, Inc. is an award-winning developer and marketer of pioneering Internet imaging technologies. The company provides media infrastructure and services to web sites requiring high volumes of user-supplied content. Their Internet services make it easy for customers to collect, transform, and deploy millions of media objects in just seconds. PictureWorks currently markets its services to the online auctions, real estate, classifieds, insurance and A/E/C industries. Founded in 1994, PictureWorks is a privately held company headquartered in Danville, California.

###

IPIX, Interactive Pictures, iPIX, Internet Pictures and bamboo.com are trademarks of Internet Pictures Corporation. Infranet(R) is the trademark of Portal Software Inc.

This press release contains forward-looking information within the meaning of Section 27A of the Securities Act of 1933 and Section 21E of the Securities Exchange Act of 1934, and is subject to the safe harbors created by those sections. Statements concerning the implementation of Internet Pictures Corporation's services and the benefits expected to result from those services constitute forward-looking statements and are based on current expectations. Actual results may differ materially from those projected in the forward-looking statements. Factors that could cause actual results to differ include the failure of Internet Pictures Corporation to complete the merger, and the failure to successfully integrate PictureWorks' business and operations into its own. The matters discussed in this press release also involve risks and uncertainties described from time to time in Internet Pictures Corporation's filings with the Securities and Exchange Commission (SEC). In particular, see "Risk Factors" in the proxy statement included in the Registration Statement for bamboo.com, Inc. (now known as Internet Pictures Corporation) on Form S-4 declared effective by the SEC on December 16, 1999 ([www.sec.gov](http://www.sec.gov)). <<http://www.sec.gov>>.

</TEXT>

</DOCUMENT>

</SEC-DOCUMENT>

-----END PRIVACY-ENHANCED MESSAGE-----

# Exhibit C



## United States Patent and Trademark Office

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### Assignments on the Web > [Patent Query](#)

#### Patent Assignment Abstract of Title

**NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.**

#### Total Assignments: 12

**Patent #:** [6895557](#) **Issue Dt:** 05/17/2005 **Application #:** 09357836 **Filing Dt:** 07/21/1999  
**Inventors:** LISA T. WOOD, SCOTT M. LEWIS, ROBIN T. FRIED  
**Title:** WEB-BASED MEDIA SUBMISSION TOOL

#### Assignment: 1

**Reel/Frame:** [010128/0651](#) **Recorded:** 07/21/1999 **Pages:** 5

**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

**Assignors:** [WOOD, LISA T.](#) **Exec Dt:** 07/09/1999  
[LEWIS, SCOTT M.](#) **Exec Dt:** 07/09/1999  
[FRIED, ROBIN T.](#) **Exec Dt:** 07/15/1999

**Assignee:** [PICTUREWORKS TECHNOLOGY, INC.](#)  
[649 SAN RAMON VALLEY BLVD.](#)  
[DANVILLE, CALIFORNIA 94526](#)

**Correspondent:** BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
 MICHAEL J. URE  
 P.O. BOX 1404  
 ALEXANDRIA, VA 22313-1404

#### Assignment: 2

**Reel/Frame:** [012743/0132](#) **Recorded:** 04/01/2002 **Pages:** 3

**Conveyance:** CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

**Assignor:** [PICTUREWORKS TECHNOLOGY, INC.](#) **Exec Dt:** 04/26/2000

**Assignee:** [PW TECHNOLOGY, INC.](#)  
 3160 CROW CANYON ROAD, 4TH FLR.  
 SAN RAMON, CALIFORNIA 94583

**Correspondent:** BURNS, DOANE, SWECKER & MATHIS, L.L.P.  
 JOSEPH P. O'MALLEY  
 P.O. BOX 1404  
 ALEXANDRIA, VA 22313-1404

#### Assignment: 3

**Reel/Frame:** [011828/0054](#) **Recorded:** 05/23/2001 **Pages:** 13

**Conveyance:** INTELLECTUAL PROPERTY SECURITY AGREEMENT

**Assignor:** [INTERNET PICTURES CORPORATION](#) **Exec Dt:** 05/14/2001

**Assignee:** [IMAGE INVESTOR PORTFOLIO, A SEPARATE SERIES OF MEMPHIS ANGELS, LLC, A DELAWARE LIMITED LIABILITY COMPANY](#)  
 SUITE 395  
 6410 POPULAR AVENUE  
 MEMPHIS, TENNESSEE 38119

**Correspondent:** BARBARA SMILEY  
 COOLEY GODWARD LLP  
 11951 FREEDOM DRIVE  
 RESTON TOWN CENTER  
 RESTON, VA 20190-5601

## Assignment: 4

**Reel/Frame:** [011828/0088](#) **Recorded:** 05/23/2001 **Pages:** 14

**Conveyance:** INTELLECTUAL PROPERTY SECURITY AGREEMENT

**Assignor:** [PW TECHNOLOGY, INC.](#) **Exec Dt:** 05/14/2001

**Assignee:** [IMAGE INVESTOR PORTFOLIO, A SEPARATE SERIES OF MEMPHIS ANGELS, LLC, A DELAWARE LIMITED LIABILITY COMPANY](#)  
6410 POPLAR AVENUE, SUITE 395  
MEMPHIS, TENNESSEE 38119

**Correspondent:** COOLEY GODWARD LLP  
BARBARA SMILEY  
11951 FREEDOM DRIVE  
RESTON TOWN CENTER  
RESTON, VA 20190-5601

## Assignment: 5

**Reel/Frame:** [011837/0431](#) **Recorded:** 05/23/2001 **Pages:** 14

**Conveyance:** INTELLECTUAL PROPERTY SECURITY AGREEMENT

**Assignor:** [INTERACTIVE PICTURES CORPORATION](#) **Exec Dt:** 05/14/2001

**Assignee:** [IMAGE INVESTOR PORFOLIO, A SEPARATE SERIES OF MEMPHIS ANGELS, LLC, A DELAWARE LIMITED LIABILITY COMPANY](#)  
6410 POPLAR AVENUE, SUITE 395  
MEMPHIS, TENNESSEE 38119

**Correspondent:** COOLEY GODWARD LLP  
BARBARA SMILEY  
11951 FREEDOM DRIVE  
RESTON TOWN CENTER  
RESTON, VA 20190-5601

## Assignment: 6

<b>Reel/Frame:</b> <a href="#">012295/0978</a>	<b>Recorded:</b> 11/09/2001	<b>Pages:</b> 4
<b>Conveyance:</b> RELEASE		
<b>Assignor:</b> <a href="#">IMAGE INVESTOR PORTFOLIO, A SEPARATE SERIES OF MEMPHIS ANGELS, LLC</a>	<b>Exec Dt:</b> 09/26/2001	
<b>Assignee:</b> <a href="#">PW TECHNOLOGY, INC.</a> 3160 CROW CANYON RD. SAN RAMON, CALIFORNIA 94583		
<b>Correspondent:</b> COOLEY GODWARD LLP BARBARA SMILEY 11951 FREEDOM DRIVE RESTON, VA 20190		

## Assignment: 7

<b>Reel/Frame:</b> <a href="#">012295/0982</a>	<b>Recorded:</b> 11/09/2001	<b>Pages:</b> 4
<b>Conveyance:</b> RELEASE		
<b>Assignor:</b> <a href="#">IMAGE INVESTOR PORTFOLIO, A SEPARATE SERIES OF MEMPHIS ANGELS, LLC</a>	<b>Exec Dt:</b> 09/26/2001	
<b>Assignee:</b> <a href="#">INTERACTIVE PICTURES CORPORATION</a> 1009 COMMERCE PARK DR. OAK RIDGE, TENNESSEE 37830		
<b>Correspondent:</b> COOLEY GODWARD LLP BARBARA SMILEY 11951 FREEDOM DRIVE RESTON, VA 20190		

## Assignment: 8

**Reel/Frame:** [012295/0986](#) **Recorded:** 11/09/2001 **Pages:** 4  
**Conveyance:** RELEASE  
**Assignor:** [IMAGE INVESTOR PORTFOLIO, A SEPARATE SERIES OF MEMPHIS ANGELS, LLC](#) **Exec Dt:** 09/26/2001



**Assignee:** [INTERMET PICTURES CORPORATION](#)

1009 COMMERCE PARK DR.  
OAK RIDGE, TENNESSEE 37830

**Correspondent:** COOLEY GODWARD LLP  
BARBARA SMILEY  
11951 FREEDOM DRIVE  
RESTON, VA 20190

**Assignment: 9**

**Reel/Frame:** [016216/0092](#) **Recorded:** 05/13/2005 **Pages:** 10

**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

**Assignors:** [PW TECHNOLOGY, INC.](#) **Exec Dt:** 02/11/2005  
[PICTUREWORKS TECHNOLOGY, INC.](#) **Exec Dt:** 02/11/2005

**Assignee:** [IPIX CORPORATION](#)

1009 COMMERCE PARK  
SUITE 400  
OAK RIDGE, TENNESSEE 37830

**Correspondent:** VICTOR C. MORENO  
FROST BROWN TODD LLC  
2200 PNC CENTER  
201 E. FIFTH STREET  
CINCINNATI, OH 45202

**Assignment: 10**

**Reel/Frame:** [016216/0102](#) **Recorded:** 05/13/2005 **Pages:** 16

**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

**Assignor:** [IPIX CORPORATION](#) **Exec Dt:** 02/11/2005

**Assignee:** [ADMISSION CORPORATION](#)

2430 CAMINO RAMON  
SUITE 122  
SAN RAMON, CALIFORNIA 94583

**Correspondent:** VICTOR C. MORENO  
FROST BROWN TODD LLC  
2200 PNC CENTER  
201 E. FIFTH STREET  
CINCINNATI, OHIO 45202

**Assignment: 11**

**Reel/Frame:** [018911/0565](#) **Recorded:** 02/21/2007 **Pages:** 5

**Conveyance:** ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

**Assignor:** [ADMISSION CORPORATION](#) **Exec Dt:** 02/01/2007

**Assignee:** [ADMISSION LICENSING LLC](#)

3000 EXECUTIVE PARKWAY, SUITE 150  
SAN RAMON, CALIFORNIA 94583

**Correspondent:** ALBERT S. PENILLA, ESQ.  
710 LAKEWAY DR., #200  
SUNNYVALE, CA 94085

**Assignment: 12**

**Reel/Frame:** [022177/0417](#) **Recorded:** 01/30/2009 **Pages:** 4

**Conveyance:** CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

**Assignor:** [ADMISSION LICENSING LLC](#) **Exec Dt:** 12/19/2008

**Assignee:** [SUMMIT 6 LLC](#)

300 EXECUTIVE PARKWAY  
SUITE 150  
SAN RAMON, CALIFORNIA 94583

**Correspondent:** LAW OFFICE OF DUANE S. KOBAYASHI  
P.O. BOX 4160

4/25/2014 Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 26 of 102 PageID 1112  
LEESBURG, VA 20177

Search Results as of: 04/25/2014 02:24 PM

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Web interface last modified: Jul 8, 2013 v.2.3.4

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# Exhibit D



ABOUT US PORTFOLIO TEAM REGION CONTACT US

# SUMMIT6

## Summit6/AdMission

Swiftsure Board Member: Scott Wilson

Swiftsure sponsored the management buyout of the AdMission division from a public company, IPIX, in 2005. AdMission was a leading provider of dynamic online advertising solutions used for creating, distributing, and optimizing dynamic ads. AdMission uses its proprietary technology to create and distribute intelligent rich media ads that are customized for target consumers in response to behavioral, contextual, and geographic inputs. AdMission's operating business was sold to The Cobalt Group in 2008.

AdMission's patents and other intellectual property were retained and reside in Summit 6 LLC. Summit 6 develops and licenses media processing and management solutions to a wide range of online industries. The company's technology simplifies and streamlines the collection and redistribution of rich media content.

[www.summit6.com](http://www.summit6.com)

*"Swiftsure has worked with us as partners from the beginning of our relationship. They helped us structure a management buyout and obtain subsequent financing. Scott has served as chairman of our board and his insight has been critical in developing our strategy as our business has evolved."*

– Sarah Pate, Chief Executive Officer

Securities offered through Swiftsure Securities, LLC, member FINRA and SIPC. View our [Privacy Policy and Disclosures](#).

# **Exhibit E**



## United States Patent and Trademark Office

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### Assignments on the Web > [Patent Query](#)

#### Patent Assignment Abstract of Title

**NOTE: Results display only for issued patents and published applications. For pending or abandoned applications please consult USPTO staff.**

#### Total Assignments: 4

Patent #: [7765482](#)

Issue Dt: 07/27/2010

Application #: 10961720

Filing Dt: 10/08/2004

Publication #: [20050060180](#)

Pub Dt: 03/17/2005

Inventors: Lisa T. Wood, Scott M. Lewis, Robin T. Fried

Title: WEB-BASED MEDIA SUBMISSION TOOL

#### Assignment: 1

Reel/Frame: [016216/0092](#)

Recorded: 05/13/2005

Pages: 10

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignors: [PW TECHNOLOGY, INC.](#)

Exec Dt: 02/11/2005

[PICTUREWORKS TECHNOLOGY, INC.](#)

Exec Dt: 02/11/2005

Assignee: [IPIX CORPORATION](#)

1009 COMMERCE PARK

SUITE 400

OAK RIDGE, TENNESSEE 37830

Correspondent: VICTOR C. MORENO

FROST BROWN TODD LLC

2200 PNC CENTER

201 E. FIFTH STREET

CINCINNATI, OH 45202

#### Assignment: 2

Reel/Frame: [016216/0102](#)

Recorded: 05/13/2005

Pages: 16

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: [IPIX CORPORATION](#)

Exec Dt: 02/11/2005

Assignee: [ADMISSION CORPORATION](#)

[2430 CAMINO RAMON](#)

[SUITE 122](#)

[SAN RAMON, CALIFORNIA 94583](#)

Correspondent: VICTOR C. MORENO

FROST BROWN TODD LLC

2200 PNC CENTER

201 E. FIFTH STREET

CINCINNATI, OHIO 45202

#### Assignment: 3

Reel/Frame: [018911/0565](#)

Recorded: 02/21/2007

Pages: 5

Conveyance: ASSIGNMENT OF ASSIGNORS INTEREST (SEE DOCUMENT FOR DETAILS).

Assignor: [ADMISSION CORPORATION](#)

Exec Dt: 02/01/2007

Assignee: [ADMISSION LICENSING LLC](#)

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SAN RAMON, CALIFORNIA 94583

Correspondent: ALBERT S. PENILLA, ESQ.

710 LAKEWAY DR., #200

SUNNYVALE, CA 94085

**Assignment: 4**

**Reel/Frame:** [022177/0417](#)

**Recorded:** 01/30/2009

**Pages:** 4

**Conveyance:** CHANGE OF NAME (SEE DOCUMENT FOR DETAILS).

**Assignor:** [ADMISSION LICENSING LLC](#)

**Exec Dt:** 12/19/2008

**Assignee:** [SUMMIT 6 LLC](#)

[300 EXECUTIVE PARKWAY](#)

[SUITE 150](#)

[SAN RAMON, CALIFORNIA 94583](#)

**Correspondent:** LAW OFFICE OF DUANE S. KOBAYASHI  
P.O. BOX 4160  
LEESBURG, VA 20177

Search Results as of: 04/01/2014 10:09 PM

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Web interface last modified: Jul 8, 2013 v.2.3.4

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# **Exhibit F**





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  - [Advertisers Home](#)
  - [Autos](#)
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  - [Retail](#)
  - [General Advertising](#)
- [Partners](#)
  - [Partners Home](#)
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  - [Tracking & Reporting](#)
  - [Working with Us](#)
  - [Ad Creator](#)
- [Ad Gallery](#)

[Home](#) / Cobalt



May 7, 2008

Dear AdMission Customers and Partners:

As of Tuesday, May 6, 2008, certain assets of AdMission Corporation became a part of The Cobalt Group via the close of an acquisition. Cobalt is a profitable, rapidly growing provider of a suite of digital marketing services to over 10,000 businesses in North America. Cobalt is a top tier partner of Google and Yahoo! and has deep vertical expertise in the automotive industry.

Support for the AdMission platform, partners and customer base will be retained in San Ramon, CA as a division of Cobalt. The majority of customer support, development, IT and integration personnel are remaining on the team. Both Cobalt and AdMission are dedicated to ensuring a smooth transition, and existing customers and partners in the publishing, real estate, and financial services industries will experience no immediate change to their existing or planned ad orders or integrations. All AdMission services and technical support will continue to be fully accessible and available.

This acquisition represents tremendous opportunity for AdMission advertising solutions because of Cobalt's commitment to the expansion of the AdMission platform. Several exciting upgrades, including ad creator 2.0, will launch in the near term continuing AdMission's tradition of providing unprecedented display advertising reach, engagement and effectiveness.

The focus for both Cobalt and the AdMission division remains customer revenue generation, success and satisfaction, and throughout the coming months, we'll be working personally with many of you to devise exciting new solutions that serve you better. If you have questions regarding the acquisition, please see the attached Customer Q&A document. You may also call AdMission directly on 925-328-1200 or email [admission-pr@admission.net](mailto:admission-pr@admission.net).

Your business is important to Cobalt and to the AdMission division. The entire blended team thanks you in advance for your continued patronage, and your trust in us to provide you with world-class advertising solutions and services.

Best Regards,

Sarah F. Pate  
AdMission President & CEO

## Questions and answers regarding the Cobalt acquisition of certain assets of AdMission Corporation.

Click a question below to view the answer.

- [Who is AdMission?](#)
- [Who is Cobalt?](#)
- [Why is AdMission selling certain assets of AdMission Corporation?](#)
- [Why is Cobalt acquiring certain assets of AdMission?](#)
- [How does AdMission's acquisition benefit customers?](#)
- [Our company is not in the automotive industry. Will Cobalt continue to support our business needs?](#)
- [Will we still have the same support team?](#)
- [Will the platform continue to be enhanced?](#)
- [Will AdMission continue to accept automotive customers with this deal?](#)
- [Will AdMission be accepting new non-automotive customers and resellers \(i.e. resale real estate, new home builders, and radio broadcast groups\)?](#)
- [Our company is in the process of testing prior to going live with AdMission Classifieds. Can and should we continue this process?](#)
- [We are part of a publishing group corporate agreement. We planned to launch with AdMission by the end of the year. Should we continue to plan on this?](#)
- [How long does Cobalt expect to maintain AdMission Classifieds-only customers?](#)
- [We work with AdMission via a publishing vendor \(i.e. Mactive, DTI or Atex\). How will this change effect our implementation?](#)
- [Will you continue to market AdMission ad products to the newspaper channel?](#)
- [Will current newspaper customers be able to continue the use of Cars.com data in AdMission ads?](#)

## Letter to Customers

Download the announcement from AdMission CEO Sarah Pate.

[Download PDF](#)

## FAQ

Download all questions and answers on this page.

[Download PDF](#)

## Questions?

Chat with us live via your computer now, or call us on 925-328-1200 to speak with a sales rep.



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# Exhibit G

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## Entity Details

File Number: **4248539** Incorporation Date / Formation Date: **11/08/2006**  
(mm/dd/yyyy)

Entity Name: **SUMMIT 6 LLC**

Entity Kind: **LIMITED LIABILITY COMPANY (LLC)** Entity Type: **GENERAL**

Residency: **DOMESTIC** State: **DE**

Status: **GOOD STANDING** Status Date: **11/08/2006**

### TAX INFORMATION

Last Annual Report Filed: **NO REPORTS ON FILE** Tax Due: **\$ 0.00**

Annual Tax Assessment: **\$ 250.00** Total Authorized Shares: **0**

### REGISTERED AGENT INFORMATION

Name: **THE CORPORATION TRUST COMPANY**

Address: **CORPORATION TRUST CENTER 1209 ORANGE ST**

City: **WILMINGTON** County: **NEW CASTLE**

State: **DE** Postal Code: **19801**

Phone: **(302)658-7581**

### FILING HISTORY (Last 5 Filings)

<u>Seq</u>	<u>Document Code</u>	<u>Description</u>	<u>No. of pages</u>	<u>Filing Date</u> (mm/dd/yyyy)	<u>Filing Time</u>	<u>Effective Date</u> (mm/dd/yyyy)
1	0240	Amendment; Domestic  <b>Former Name:</b> <b>ADMISSION LICENSING LLC</b>	1	12/22/2008	13:06	12/22/2008
2	0102Y	Register L.L.C.	1	11/08/2006	09:24	11/08/2006

[Back to Entity Search](#)

To contact a Delaware Online Agent [click here](#).

# **Exhibit H**

Recording Requested By:  
Nationwide Title Clearing  
When Recorded Return To:

DAVID V PATE  
3412 STONE VALLEY ROAD  
ALAMO, CA 94507

CONTRA COSTA Co Recorder Office  
JOSEPH CANCIAMILLA, Clerk-Recorder  
DOC- 2013-0216156-00

Check Number

Friday, AUG 30, 2013 12:04:35

MOD \$2.00:REC \$22.00:FTC \$0.00

DAF \$5.40:REF \$0.60:RED \$2.00

ERD \$2.00:

Ttl Pd \$34.00 Rcpt # 0001774735

Loan #: 0224945279

### SUBSTITUTION OF TRUSTEE and FULL RECONVEYANCE

The undersigned, **WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE, INC.**, as the current beneficiary of that certain Deed of Trust executed by **DAVID V PATE AND SARAH F PATE** (Trustor), and recorded 07/01/2003 in the Office of the Recorder of CONTRA COSTA County, State of California, Instrument # 2003-0311483-00, and/or Book , Page , of Official Records, does in accordance with the provisions of said Deed of Trust hereby substitute **WELLS FARGO BANK, N.A.** as Trustee in place and stead of the Trustee therein, and does hereby vest **WELLS FARGO BANK, N.A.** as substituted Trustee with all rights, title, estate, power, duty and trusts conferred by said Deed of Trust;

WHEREAS the current beneficiary having represented to the Trustee that the obligation secured by said Deed of Trust has been fully paid and/or satisfied,

Dated on 8/27 /2013 (MM/DD/YYYY)

**WELLS FARGO BANK, N.A., SUCCESSOR BY MERGER TO WELLS FARGO HOME MORTGAGE, INC.**

*Kimberly Nance*

**Kimberly Nance VICE PRESIDENT LOAN DOCUMENTATION**

All Authorized Signatories whose signatures appear above are employed by NTC and have reviewed this document and supporting documentation prior to signing.

NOW THEREFORE, **WELLS FARGO BANK, N.A.**, as substituted Trustee, DOES HEREBY GRANT AND RECONVEY unto the parties entitled thereto, without warranty, all the estate and interest granted to said Trustee under said Deed of Trust in the lands therein described, situated in the County of CONTRA COSTA, State of California. Reference being hereby made specifically to said Deed of Trust and the record thereof for a particular description of said lands.

**WELLS FARGO BANK, N.A.**

*Susan Schotsch*

**Susan Schotsch VICE PRESIDENT LOAN DOCUMENTATION**

STATE OF FLORIDA COUNTY OF PINELLAS

The foregoing instrument was acknowledged before me on 8/27 /2013 (MM/DD/YYYY), by **Kimberly Nance** and **Susan Schotsch** as VICE PRESIDENT LOAN DOCUMENTATION and VICE PRESIDENT LOAN DOCUMENTATION, respectively, on behalf of their respective entities, who, as such VICE PRESIDENT LOAN DOCUMENTATION and VICE PRESIDENT LOAN DOCUMENTATION being authorized to do so, executed the foregoing instrument for the purposes therein contained. They are personally known to me.

*Elizabeth A. Mustard*

Elizabeth A. Mustard EE 088429  
Notary Public - State of FLORIDA  
Commission expires: 08/27/2015



Elizabeth A. Mustard  
Notary Public State of Florida  
My Commission # EE 088429  
Expires August 27, 2015

Bonded Thru Notary Public Underwriters

Document Prepared By: **E.Lance/NTC, 2100 Alt. 19 North, Palm Harbor, FL 34683 (800)346-9152**  
WFHRC 21503582 -@ DOCR T2013081210 [C] RCNCA61



\*D0003148505\*

# Exhibit I

Sarah Pate | LinkedIn

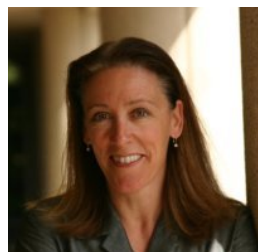
Page 1 of 3

Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 40 of 102 PageID 1126

9 Search for people, jobs, companies, and more... Advanced

Home Profile Network Jobs Interests Business Services Try Premium

Are You A Director? - Apply Now to the Worldwide Who's Who network for Distinguished Individuals | [Read More »](#)



## Sarah Pate

**Managing Director at Summit 6 LLC**

**San Francisco Bay Area** Marketing and Advertising

Current Summit 6 LLC, AdMission Corporation  
 Previous IPIX Corporation, PictureWorks Technology, Household International  
 Education University of Washington

[Send Sarah a message](#)

196 connections

[www.linkedin.com/pub/sarah-pate/2/a33/944](http://www.linkedin.com/pub/sarah-pate/2/a33/944)

### Background

### Experience

#### Managing Director Summit 6 LLC

April 2009 – Present (5 years 2 months)

#### Founder and CEO

AdMission Corporation

January 2005 – Present (9 years 5 months)

AdMission's proprietary technology merges the advertiser's brand messaging and live product inventory on-the-fly, to create hybrid search/display ads that perform significantly better than traditional display ads. AdMission ads are compatible with leading third-party ad servers and can be distributed throughout existing ad networks and websites. [www.admission.net](http://www.admission.net)

#### EVP, General Manager

IPIX Corporation

April 2000 – January 2005 (4 years 10 months)

Responsible for the advertising business unit of IPIX with key customers such as Move.com and eBay. Successfully led an MBO to spin the business unit out of IPIX in early 2005.

#### COO/CFO

PictureWorks Technology

July 1998 – April 2000 (1 year 10 months)

Helped build this innovative start up into a profitable company from inception to successful acquisition in April of 2000.

#### President, Division General Manager

Household International

1982 – 1994 (12 years)

Division General Manager 1991-1994  
 President, Household Bank 1990-1991  
 VP Human Resources, Household Bank 1988-1989  
 Household Finance Corp. Sales 1982-1987

### Skills & Endorsements

### People Similar to Sarah



#### Christopher Lien

Executive Chairman at Marin Software

[Connect](#)

Attract new customers on LinkedIn.

Free resources to market your business.

[View resources >>](#)

### People Also Viewed



#### Scott L.

Managing Director



#### Scott Wilson

Managing Partner, Swiftsure Capital



#### Christine Imfeld

Integrative Wellness Coach and Marketing Specialist



#### Jason Golding

Manager, Bus Dev/Corp Law at Point2 Technologies Inc.



#### Jason W. Hardin

Attorney at Fabian & Clendenin, P.C.



#### Peter Yoakum

Web Tester at Foundry Interactive



#### Elizabeth Perlman

Executive Director, The Intuitive Writing Project



#### Eddie Cleland

Territory Developer at Newcomers Welcome Service



#### Vicky Bevilacqua-True

Founder, BetterWorld B2B consulting, partner at Reva Athletic Apparel



#### Laura Humphrey

Business Consultant



Sarah Pate | LinkedIn

Page 2 of 3

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**Top Skills**

9 Search for people, jobs, companies, and more...

Home **Start-ups** Profile Network Jobs **Interests**

- 18 Start-ups
- 11 Advertising
- 8 Strategic Partnerships
- 7 Management
- 6 Corporate Development
- 5 Product Management
- 5 Sales
- 5 Entrepreneurship
- 4 Business Development
- 2 SaaS

**In Common with Sarah**

You Business Services Sarah Try Premium

1 Location

**People Similar to Sarah**

**Christopher Lien**  
Executive Chairman at Marin Software  
Connect

**Ads You May Be Interested In**

**eCornell Marketing Cert in 12 Wks**  
30% off eCornell Courses Until 5/31! Advance Your Career, Start Today.

**Branded USB Flash Drives**  
Give your customers a long-lasting gift; 6 day delivery & free samples!

**eBook: Mobile App Testing**  
Learn tips and trends for developing mobile apps. Get this Free eBook now.

**Sarah also knows about...**

- 2 E-commerce
- 1 Strategy
- 1 Product Marketing
- 1 Executive Management

**Education**

**University of Washington**  
BA, Business and Finance

**Recommendations**

**Given (5)**

**Edward Cleland**  
“ I strongly recommend Edward. I have been studying with him through the Master's program at JFKU and we both are on track for graduation this June. In working on joint projects I have always sought out Edward due to his business acumen, diligence, intelligence, and he's just plain fun to work with.  
March 25, 2014, Sarah studied with Edward at John F. Kennedy University

**Jon Howe**  
Director of Manufacturing and Partner Development  
“ I originally hired Jon as a Quality Assurance Engineer at PictureWorks Technology in 1997. As the company grew, Jon assumed the responsibility for IT in 1999. Jon remained in this position following the acquisition of the company in 2000 by iPIX Corporation where he was promoted into product management in 2002. Across Jon's multiple roles he continually demonstrated an... **more**  
August 4, 2010, Sarah managed Jon indirectly at Ecast

**Mitch Hertz**  
Director  
“ I have had the opportunity to work with Mitch for fifteen years and five commercial lease negotiations. Mitch is far more than a typical broker. Yes he is an exceptional negotiator with a strong background in real estate law as well as very personable, but that still is not what makes him stand out. Mitch takes the time to really know his clients, their personal and... **more**  
August 31, 2009, Sarah was Mitch's client

Sarah Pate | LinkedIn

Page 3 of 3

Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 42 of 102 PageID 1128

Home Profile **Terry Delisa** Affiliate Sales Manager Search for people, jobs, companies, and more... Advanced Business Services Try Premium

“Terry worked as a regional sales manager for AdMission Corporation working directly for the VP of sales. As CEO I had the opportunity to join her on several sales calls as well as work alongside her at industry specific tradeshows. Terry was exceptional at building rapport with clients that went well beyond a mere sales support relationship. Her genuine interest in her... **more**

July 24, 2009, Sarah managed Terry indirectly at Admission

**Laurie Boone** Account Manager

“I have had the opportunity to work with Laurie for over ten years in her capacity of Project Management across three companies, from early start up to public corporation. Laurie has the unique ability to balance the needs of the customer with the needs of the company while still driving a project to its successful conclusion. She is tenacious, pragmatic and creative and... **more**

March 25, 2009, Sarah managed Laurie indirectly at AdMission Corporation

See More

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Greater Seattle Area  
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# Exhibit J

Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 44 of 102 PageID 1130

RECORDING REQUESTED BY:  
ReconTrust Company, N.A.  
2575 W. Chandler Blvd.  
Mail Stop: AZ1-804-02-11  
Chandler AZ 85224

AND WHEN RECORDED MAIL TO  
SCOTT M LEWIS, KRISTA E LEWIS  
24 Diamond Dr  
Danville CA 94526

20139024677300001  
CONTRA COSTA Co Recorder Office  
JOSEPH CANCIAMILLA, Clerk-Recorder  
DOC-2013-0246773-00  
Acct 3039-E-ReconTrust  
Thursday, OCT 17, 2013 14:23:07  
MOD \$1.00|REC \$11.00|FTC \$0.00  
DAF \$2.70|REF \$0.30|RED \$1.00  
ERD \$1.00|  
Ttl Pd \$17.00 Rcpt # 0001811685  
AOA/RC/1-1

DOCID\_97710989154597797

MERS MIN#:

MERS PHONE#:

**FULL RECONVEYANCE**

SCOTT M LEWIS, KRISTA E LEWIS, is the trustor and ReconTrust Company, N.A. is the current trustee ("Trustee") under that certain Deed of Trust dated 07/19/2005, and recorded on 07/27/2005 as Instrument or Document No. 2005-0277199-00, in Book N/A, Page N/A, of the Official Records in the Office of the Recorder of Contra Costa County, State of California;

The Trustee, having been requested in writing by the beneficiary of the Deed of Trust to reconvey the estate granted to Trustee under said Deed of Trust, does hereby reconvey to the person or persons legally entitled thereto, without warranty, all the estate, title and interest acquired by Trustee under said Deed of Trust.

Dated: 10/17/2013

Trustee:

ReconTrust Company, N.A.

*J. Valenzuela*

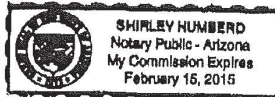
Jacqueline N. Valenzuela, Assistant Vice President

STATE OF ARIZONA }  
COUNTY OF Maricopa } S.S.

On 10/17/2013, before me, Shirley Humberd, Notary Public, personally appeared Jacqueline N. Valenzuela, Assistant Vice President, of ReconTrust Company, N.A., whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be and whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or entity upon behalf of which the person acted, executed the instrument.  
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last written.

*S. Humberd*

Shirley Humberd  
Notary Public for said State and County  
Phone # (800) 540-2684



APPX044

# **Exhibit K**

Recording Requested By:  
VERDUGO TRUSTEE SERVICE CORPORATION

When Recorded Return To:

Current Trustor:

JAMES D WOOD

LISA T WOOD

1 WOODSIDE CT

DANVILLE, CA 94506-1139



CONTRA COSTA Co Recorder Office  
JOSEPH CANCEMILLA, Clerk-Recorder  
DOC- 2013-0177753-00

Check Number

Tuesday, JUL 16, 2013 10:55:25

MOD \$1.00:REC \$11.00:FTC \$0.00

DAF \$2.70:REF \$0.30:RED \$1.00

ERD \$1.00:

Ttl Pd \$17.00

Rcpt # 0001729576

CLM/RV/1-1

### FULL RECONVEYANCE

CITIMORTGAGE, INC. #:0011386321 "WOOD" Lender ID:07405/000000132355371 Contra Costa, California  
Prepared By: DENNIS MYERS, VERDUGO TRUSTEE SERVICE CORP PO BOX 10003, HAGERSTOWN, MD 21747-0003  
1-800-283-7918

VERDUGO TRUSTEE SERVICE CORPORATION as present Trustee for the Deed of Trust executed by JAMES D WOOD LISA T WOOD HUSBAND AND WIFE as Trustor(s), Dated: 03/25/2003 Recorded: 04/02/2003 in Book/Reel/Liber: N/A Page/Folio: N/A as Instrument No.: 2003-0150132-00 of official Records in the office of the County Recorder of Contra Costa, California having been requested in writing, by the holder of the obligations secured by said Deed of Trust, to reconvey the estate granted to trustee under said Deed of Trust, does hereby reconvey to the person or persons legally entitled thereto, without warranty, all the estate, title and interest acquired by Trustee under said Deed of Trust.

IN WITNESS WHEREOF, VERDUGO TRUSTEE SERVICE CORPORATION as the Trustee has caused its corporate name to be affixed by a duly authorized officer on the date shown in the acknowledgment certificate below:

On July 11th, 2013

By: VERDUGO TRUSTEE SERVICE CORPORATION as Trustee

TERRI SHEFFLER VICE PRESIDENT

STATE OF Maryland  
COUNTY OF Washington

On July 11th, 2013, before me, JESSICA L. SCHROYER, a Notary Public in and for Washington in the State of Maryland, personally appeared TERRI SHEFFLER, VICE PRESIDENT, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal,

JESSICA L. SCHROYER  
Notary Expires: 02/23/2017

Jessica L. Schroyer  
Notary Public  
Washington Co., MD

(This area for notarial seal)

VM\*VM2CITM\*06/30/2013 10:22:00 PM\* CITM01CITM000000000000007464139\* CACONTR\* 0011386321 CASTATE\_TRUST\_REL \*CM\*CM2CITM\*

# **Exhibit L**

**SWIFTSURE**  
— CAPITAL —

Navigating Private Equity With Confidence

[ABOUT US](#) [PORTFOLIO](#) [TEAM](#) [REGION](#) [CONTACT US](#)



## Scott F. Wilson

Prior to founding Swiftsure in 2004, Scott spent 27 years in Silicon Valley in a variety of both operational and financial positions. He was a Co-Founder and Managing Partner of Transcontinental Capital Partners, a boutique investment banking firm headquartered in Palo Alto serving mid-market businesses.

Scott's extensive operational experience includes positions as Founder, CEO, CFO and Director of Corporate Development in emerging growth companies in the communications, semiconductor and pharmaceutical industries. He is currently a director of Summit 6, CoCo Communications and Viableware, and is a board observer of Yapta.

Scott was born and raised in Seattle where he went to Roosevelt High School and earned his BA and a JD from the University of Washington. After graduating from law school, Scott was an attorney with the Securities and Exchange Commission in Washington, DC for two years. Subsequently, he received an MBA from Stanford University Graduate School of Business.

Scott serves as a member of the Board of Ambassadors of The Fred Hutchinson Cancer Research Center, and a member of the Board of Directors of both the Seattle Goodwill and ACT Theatre. Scott enjoys skiing, hiking and fishing in Sun Valley and biking around the Northwest. He and his wife Shirley have three grown children.

Securities offered through Swiftsure Securities, LLC, member **FINRA** and **SIPC**. View our **Privacy Policy and Disclosures**.



# Exhibit M



4



0

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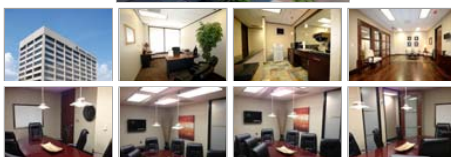
### Park Cities

**\$75.00/month**

**4925 Greenville Ave.**

Dallas, TX 75206

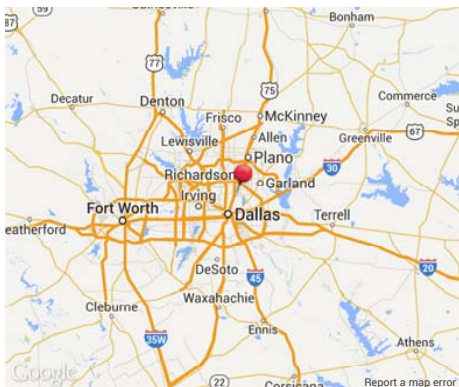
1.888.VOFFICE (1.888.863.3423)



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Virtual Office space in person?**

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#### THIS VIRTUAL OFFICE PACKAGE INCLUDES:

- Local professional business address
- Use of address for business cards, licensing, website, etc.
- Mail Receipt
- Lobby greeter to welcome your walk-in clients
- Access to network of over 3000 meeting spaces worldwide (pricing may vary by location)
- Business Support Center (additional fee)
- Client drop off/pick up point
- Private day offices – varies by location, avg \$10-\$35/hr
- Conference rooms – varies by location, avg \$25-\$45/hr

#### AVAILABLE ADD ONS:

- Lobby Directory Listing (extra fee where avail.) - **\$20.00/month**
- 2 Hours Optional Meeting Room Package (\$30/month extra fee) - **\$30.00/month**
- 10 Hours Optional Meeting Room Package (\$150/month extra fee) - **\$150.00/month**
- Bi-Monthly Mail Forwarding (Extra Monthly Fee) - **\$15.00/month**
- Daily Mail Forwarding (Extra Monthly Fee) - **\$40.00/month**
- Monthly Mail Forwarding (Extra Monthly Fee) - **\$7.00/month**
- Weekly Mail Forwarding (Extra Monthly Fee) - **\$20.00/month**

Thank you for visiting Davinci Virtual. At our virtual office locations in Park Cities, 4925 Greenville Ave., Dallas, TX 75206 we have everything to meet your virtual business needs. Continue your telecommuting or home working and impress your clients with a virtual address at Park Cities, 4925 Greenville Ave., Dallas, TX 75206.

Find business centers, day offices, part-time offices, and other virtual meeting facilities all equipped with live receptionist

Need more than a virtual address at Park Cities, 4925 Greenville Ave., Dallas, TX 75206? If you want to have a face-to-face with

services and professional lobby greeters at Park Cities. Ask about **call answering**, a **virtual assistant**, or **web chat services** for your virtual office at this prime address when you make your reservation. We will make your experience at our executive virtual office suites as smooth and effortless as possible.

your client, want to do some office sharing or desk sharing, Davinci offers to turn your virtual address at Park Cities into an actual work space you may rent for your touchdown or mobile working needs. Reserving a collaboration space online is fast and easy!

**Call 1.888.863.3423** now to reserve a location or select a virtual office center at Park Cities, 4925 Greenville Ave., Dallas, TX 75206 above to view pricing and additional facility features. Booking your Davinci Virtual location is convenient and hassle free.

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# Exhibit N



### SEND US A MESSAGE

Please contact us with any questions or comments.  
A Davinci Virtual representative will contact you shortly.

\* Required Fields

First Name

Last Name

Email Address

Phone Number

How did you hear about us?



Mobile

Company

Address

City

State



Zip

Interested in a tour of 4925 Greenville Ave., Suite 200 Dallas, TX 75206

Comments



Answer

Phone:

1888.V.OFFICE (888.863.3423)

Fax:

1.877.990.4251

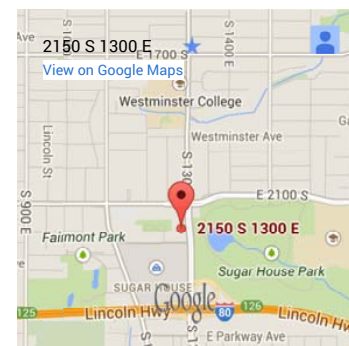
Email:

support@davincivirtual.com

Address:

2150 South 1300 East, Suite 200  
Salt Lake City, UT 84106  
United States

[View Map](#)



#### About Davinci Virtual

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Employment  
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Join Partner Network  
Mobile Site

#### Our Services

Live Receptionist Services  
Virtual Office Locations  
Live Chat Services  
Remarkable Offers  
Davinci Meeting Rooms  
Resources

#### Customer Care

FAQ's  
Contact Us  
Live Chat  
Refer a Friend  
Log In / My Account  
Calculator

#### Community

Blog  
Contest  
Facebook  
LinkedIn  
LinkedIn Group  
Twitter  
YouTube

8+1 0

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# Exhibit O

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[Home > Accident & Property Damage Attorneys near Dallas, TX > Attorneys At Law Ric...](#)

## Attorneys At Law Rick Weaver Personal Injury Law Firm

**OPEN**  
Today: Open 24 Hours  
Tomorrow: Open 24 Hours

**4925 Greenville Ave, #200, Dallas, TX 75206**  
**(214) 495-1300**

[Email Business](#)

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Add a personal note here, and keep this business handy in **mybook It**

**BUSINESS DETAILS** | [GALLERY](#) | [REVIEWS](#)

**We'll Fight For You!**  
**Call for Free Consultation: 214-495-1300**

**Hours:** Mon - Sun Open 24 Hours

**More Info:** Personal Injury lawyers at Weaver Injury Law Firm have helped Texas who have been injured for over 30 years, offering clients exceptional legal representation with an array of injuries and types of accidents. From car accidents, slip and fall accidents, and more complex truck accidents. Our legal team has a track record of assisting those who [More >](#)

**Services/Products:**

- Truck Accidents
- 18-wheeler accidents
- Auto Accidents

[More >](#)

**Brands:** 18-wheeler accidents, Animal Bites , Auto Accidents, Birth Injuries, Car accidents, Dog Bites, Medical Malpractice, Motorcycle Accidents, Nursing Home Injuries Neglect , Premises liability, Product Liability, [More >](#)

**Payment method:** Insurance

**Location:** Call 214-495-1300 for help finding us, or get a free consultation over the phone.  
[More >](#)

**Amenities:**

- Free Parking
- 24-7 Emergency Appointments
- Free Phone Consultation

[More >](#)

**Languages:** English, Spanish

**Accreditation:** BBB - Better Business Bureau  
State Bar of Texas

**Associations:**

- State Bar of Texas
- BBB - Better Business Bureau

**AKA:** Dallas Personal Injury Lawyer  
Personal Injury Lawyer Dallas  
Dallas Auto Accident Lawyer  
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(5)  
6440 N Central Expy Ste 204, Dallas, TX  
**DWI Lawyer Rick Weaver & Associates**  
(2)  
4925 Greenville Ave, Suite 200, Dallas, TX  
**Allmand Law**  
(5)  
5646 Milton St Suite 201, Dallas, TX

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Injury Attorney

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YP FAMILY

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AT&T

AT&T Wireless

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# Exhibit P

MENU

## CONTACT US

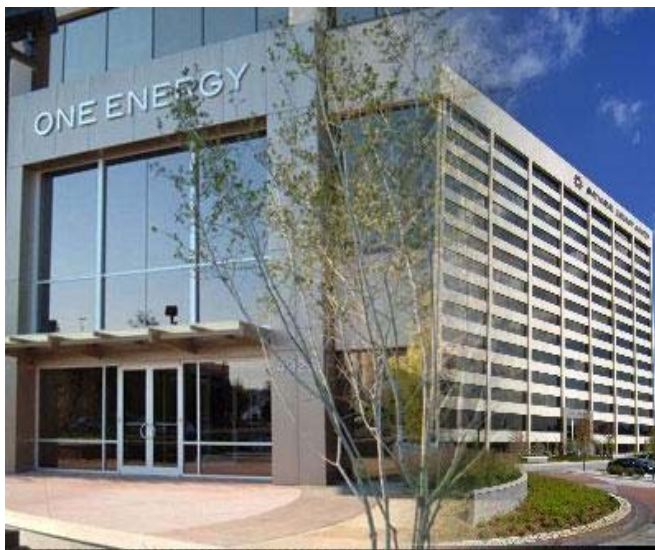
There are four easy ways to contact LeForce Law, PLLC:

Call us at 214-800-5196.

Email us at [info@leforcelaw.com](mailto:info@leforcelaw.com). ([Download V-Card](#))

By mail at our office below. ([Directions](#))

Complete and submit the contact form below.



4925 Greenville Avenue

Suite 200

Dallas, TX 75206

[Directions](#)

Name \*

Phone \*

Email \*

How did you hear about us?

Message

Submit

Please note that sending us a message via our website or any other online property does not create an attorney-client relationship between you and any lawyer at LeForce Law PLLC.

## PRACTICE AREAS

Commercial Bankruptcy  
Corporate Restructuring  
Corporate Law & Business Transactions  
Banking & Finance  
Collections & Creditors' Rights

*Jeff has always been extremely competent, responsive, and professional in his representation of our business. We trust his judgment and advice, and would recommend him to anyone needing superior legal services.*

**MICHAEL MATTHEWS**  
CO-FOUNDER AND PRESIDENT  
TOWER ACQUISITION, LLC

---

#### NAVIGATION

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#### PRACTICE AREAS

Commercial Bankruptcy  
Corporate Restructuring  
Corporate Law & Business Transactions  
Banking & Finance  
Collections & Creditors' Rights

#### LEFORCE LAW PLLC

4925 Greenville Avenue  
Suite 200  
Dallas, TX 75206

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fax: 214-800-5197  
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# Exhibit Q

Username 

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## Membership Applications

A list of all membership applications

### 1. DGS Membership Application

We welcome and thank you for your interest in the DGS. Please read the following explanation of the DGS membership structure.

#### MEMBERSHIP CRITERIA AND DUES SCHEDULE

**ACTIVE MEMBERS** Any person of integrity holding both a degree in earth science, and involved in earth sciences, who is interested in furthering the purposes of the DGS, is eligible to become an Active Member, and is thereby eligible to vote and hold office. Exceptions to the qualifications may be made by an unanimous vote of the BOD, or for Active Members of The American Association of Petroleum Geologists (AAPG). The BOD, at its discretion, may appoint Active Members to one or more DGS committees. Dues \$25/ year.

**HONORARY LIFE MEMBERS** Any Active Member who has brought distinction to the profession through public-spirited activity or scientific achievements may be approved by a majority vote of the BOD to Honorary Life Membership. Potential Honorary Life Members are nominated by the Awards Committee and following election shall thereafter be exempt from payment of dues and shall be eligible to vote and hold office.

**ASSOCIATE MEMBERS** Any person failing to qualify for the status of Active Member, but who is otherwise interested in the activities and purposes of the DGS, may become an Associate Member, but shall not be eligible to vote or hold office. Dues \$25/ year.

**STUDENT MEMBER** Any person who is a student in good standing, studying for a degree in earth science, is eligible to become a Student Member, but shall not be eligible to vote or hold office. Dues \$5/ year.

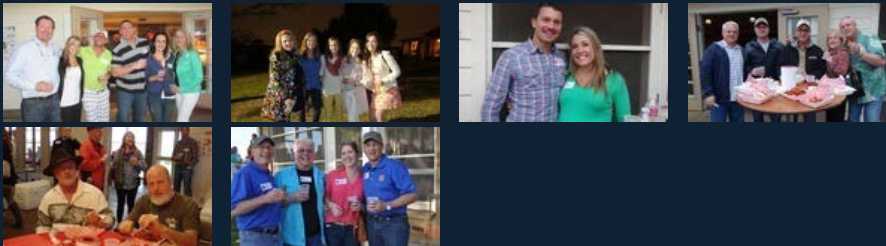
#### Administrative year covers June 1st to May 31.

Payment by credit card can be completed when the online form is completed. The second option is payment by check to the Dallas Geological Society and mailed to the DGS mailbox at: 4925 Greenville Avenue, Suite #200, Dallas, TX, 75206.

**NOTE:** You must meet the qualifications for membership and approved by the Board of Directors before your membership is active.

**Membership is not automatic upon payment of dues.**

### Event Photos



### Contact Us

4925 Greenville Avenue, Suite #200  
 Dallas, TX 75206  
 Phone: (214) 800-2642  
 Email: [Webmaster.DGS@gmail.com](mailto:Webmaster.DGS@gmail.com)


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# Exhibit R



## Law Office of S. Craig Glickman

Criminal Defense, Personal Injury, Civil Litigation

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### Locations

#### Primary

Our primary location is 4925 Greenville Ave., Suite 200, in the Reeder Energy Building at the northwest corner of University and Greenville Ave in north Dallas.

Contact us by phone,  
mail or email.

Cell: 214-407-2607  
Firm: 214-800-5145

#### Secondary

We also have conference rooms in Central Plano, West Plano, Galleria/Addison, Uptown Dallas/Turtle Creek, Uptown Dallas/McKinney Ave, North Dallas/Mockingbird Station, North Dallas/Preston Hollow, North Dallas/LBJ, Grapevine, Ft. Worth, Las Colinas, North Houston and Houston Galleria.

4925 Greenville Avenue,  
Suite 200  
Dallas, Texas  
75206

Cell: 214-407-2607  
Firm: 214-800-5145  
Fax: 214-447-9151  
craig.glickman@gmail.com

#### Schedule your meeting with us at the location nearest you!

<b>Plano/Central</b> 555 Republic Suite 200 Plano, TX 75074	<b>Plano/West</b> 1400 Preston Rd Suite 400 Plano, TX 75093	<b>Addison/Galleria</b> 13155 Noel Rd. Suite 900 Dallas, TX 75240	<b>Dallas/Turtle Creek</b> 3102 Maple Ave. Suite 400 Dallas, TX 75201
<b>Dallas/Uptown</b> 3131 McKinney Ave. Suite 600 Dallas, TX 75204	<b>Dallas/Mockingbird</b> 6060 N. Central Suite 560 Dallas, TX 75206	<b>Dallas/Pres. Hollow</b> 7557 Rambler Rd. Suite 700 Dallas, TX 75231	<b>Dallas/LBJ</b> 3010 LBJ Suite 1200 Dallas, TX 75234
<b>Grapevine</b> 1701 NW Hwy Suite 100 Grapevine, TX 76051	<b>Ft. Worth</b> 9500 Ray White Suite 200 Ft. Worth, TX 76244	<b>Las Colinas</b> 320 Decker Dr. Suite 100 Irving, TX 75062	<b>Houston/North</b> 11811 North Frwy. Suite 500 Houston, TX 77060

#### Houston/Galleria

5100 Westheimer  
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Houston, TX 77056

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# Exhibit S

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Physical Address  
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Suite 200  
Dallas, Texas 75206

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214-443-7862  
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# Exhibit T

## Bankruptcy and Tax Attorneys in Dallas Fort Worth

Rothrock Law Firm  
(214) 432-5780



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**Rothrock Law Firm - Bankruptcy and Tax Lawyers in Dallas/Fort Worth**  
**4925 Greenville Ave., Suite 200, Dallas, TX 75206. (214) 432-5780**



### Filing Bankruptcy in Dallas and Fort Worth

Carl Rothrock is a bankruptcy attorney/lawyer in Dallas/Fort Worth. He is the founder of Rothrock Law Firm, which serves the DFW area. Bankruptcy may help you stop foreclosure and repossession, reduce or eliminate IRS debts, and wipe out second mortgages and credit card debts. Unlike bill consolidation agencies that negotiate with creditors, bankruptcy provides your creditors very limited options. If you file bankruptcy, you will be protected by federal law. This website concentrates on chapter 7 and chapter 13 consumer bankruptcy cases filed in the Dallas area. If you are a business or an individual with real estate debt exceeding one million dollars, please visit our Chapter 11 website.

APPX069

Dollar To Settle Your  
DebtDelinquent Taxes And  
Unfiled ReturnsBack Taxes Owed In  
Dallas/Fort WorthInnocent Spouse  
Defense In Dallas/Fort  
WorthInstallment Agreements  
To Resolve Back TaxesTax Appeals In  
Dallas/Fort Worth

IRS Notices And Forms

Not Collectible Status

Bankruptcy And The IRS

Statute Of Limitations  
For IRS Cases

Penalty Abatement

Requests For  
Reconsideration

Payment

## Why Choose Rothrock Law Firm as your Dallas/Fort Worth Bankruptcy Attorney?

If you live in the counties of Dallas, Ellis, Hunt, Johnson, Kaufman, Navarro, Rockwall, Comanche, Erath, Hood, Jack, Palo Pinto, Parker, Tarrant, or Wise, it is important to hire a local attorney who understands the local rules of the bankruptcy judges and trustees in the area. All cases filed in these counties will be heard in the United States Bankruptcy Court for the Northern District of Texas. Carl Rothrock is admitted to practice law before the Northern District of Texas. He has been practicing law for 18 years. The attorneys of the Rothrock Law Firm are experienced bankruptcy attorneys in Dallas/Fort Worth.

## Why Choose Rothrock Law Firm as your Dallas/Fort Worth Tax Attorney?

**YOU ONLY HAVE AN ATTORNEY CLIENT PRIVILEGE WITH AN ATTORNEY, NOT A C.P.A. OR OTHER TAX PROFESSIONAL. IF THE IRS BELIEVES YOU HAVE COMMITTED A CRIME, IT CAN SUBPOENA YOUR ACCOUNTANT TO TESTIFY AGAINST YOU!** Hire an experienced attorney in tax if you have a tax problem. The attorneys at Rothrock Law Firm have more than 38 years of combined experience. In addition to being licensed attorneys, they are also certified IRS tax preparers. They can analyze your tax situation to see if it will best be handled through filing bankruptcy or dealing with the IRS directly. All the attorneys in the Rothrock Law Firm are admitted to practice before the United States Tax Court in all fifty states.

## SOME OF OUR RECENT RESULTS



Carl Rothrock, Dallas Bankruptcy Lawyer

Successfully discharged over \$20 million dollars of debt for real estate developer in Chapter 7 case. Client was able to keep all assets and pay nothing to creditors.

Successfully discharged over \$14 million dollars of debt for investor in Chapter 7 case. Client was able to keep home and repay \$14,000 to creditors to repay \$14 million dollars of debt.

Successfully confirmed chapter 11 plan where client paid \$5,500 to settle \$500,000 of past due IRS debt.

Successfully confirmed bankruptcy plan where client kept home and wiped out second mortgage of \$500,000.

Successfully confirmed chapter 11 plan where client kept multiple investment properties for \$400,000 where total debt owed was \$2.5 million.

Discharged over \$100,000 of credit card debt and stripped second mortgage. As a result, clients were able to reduce monthly expenses by \$3,000 per month, modify mortgage, and save their home.

Contact a [Bankruptcy Lawyer in Dallas](#) for a free consultation

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**Rothrock Law Firm (214) 432-5780**

4925 Greenville Ave., Suite 200, Dallas, TX 75206

**Bankruptcy and Tax Attorneys in Dallas/Fort Worth, Tx**

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APPX071

# **Exhibit U**



**Table C-5.  
U.S. District Courts—Median Time Intervals From Filing to Disposition of Civil Cases  
Terminated, by District and Method of Disposition,  
During the 12-Month Period Ending March 31, 2013**

Circuit and District	Total Cases		No Court Action		Court Action					
	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Before Pretrial		During or After Pretrial		Trial	
					Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months
TOTAL	198,301	8.4	43,423	5.0	128,042	8.5	24,058	12.7	2,778	23.8
DC	1,974	8.9	721	7.3	1,201	9.8	10	38.4	42	43.5
1ST	4,940	9.6	1,067	3.9	2,543	9.6	1,228	15.2	102	27.5
ME	373	7.8	137	6.2	220	8.8	12	19.3	4	-
MA	2,434	8.3	623	3.0	803	6.9	953	14.9	55	30.6
NH	468	9.6	81	3.9	206	6.7	169	15.2	12	19.3
RI	652	13.7	85	8.0	522	14.7	34	16.1	11	40.4
PR	1,013	11.6	141	6.7	792	11.6	60	19.9	20	26.0
2ND	18,455	8.8	3,799	5.0	10,820	8.6	3,515	12.1	321	32.2
CT	1,656	10.7	776	8.0	760	11.1	69	21.5	51	37.9
NYN	1,163	11.8	251	5.2	580	11.5	300	17.3	32	28.8
NYE	5,533	8.8	1,162	5.5	3,096	8.6	1,176	11.7	99	31.0
NYS	8,441	8.3	1,198	4.4	5,176	7.5	1,944	11.4	123	28.8
NYW	1,389	7.4	377	2.9	976	9.6	24	34.6	12	67.1
VT	273	8.9	35	3.8	232	9.5	2	-	4	-
3RD	23,315	9.2	2,467	4.0	17,015	9.3	3,506	11.9	327	27.0
DE	1,226	8.0	441	4.6	648	8.8	78	14.3	59	34.2
NJ	5,908	6.1	544	4.0	3,326	3.6	1,974	13.2	64	35.1
PAE	12,617	14.6	579	3.1	10,626	17.9	1,290	9.4	122	17.8
PAM	1,472	7.7	459	4.7	913	8.1	57	22.4	43	28.6
PAW	1,870	6.2	325	2.9	1,491	7.0	33	24.3	21	29.2
VI	222	18.0	119	14.0	11	11.5	74	19.9	18	29.0
4TH	12,392	7.4	2,302	5.3	8,437	7.1	1,467	10.4	186	20.2
MD	3,191	7.1	404	6.3	2,151	5.6	582	13.5	54	30.1
NCE	1,012	9.0	300	7.8	697	9.5	7	-	8	-
NCM	551	10.1	361	9.0	159	12.2	22	16.4	9	-
NCW	930	8.2	298	4.8	533	8.7	84	14.7	15	22.6
SC	2,484	8.8	265	3.7	2,051	9.0	135	12.1	33	25.4
VAE	2,358	5.0	330	3.0	1,434	4.1	554	7.7	40	11.1
VAW	678	8.0	167	3.8	449	8.9	46	12.5	16	12.0
WVN	428	8.8	115	6.4	302	9.2	8	-	3	-
WVS	760	8.7	62	2.6	661	9.1	29	17.9	8	-

Table C-5. (March 31, 2013—Continued)

Circuit and District	Total Cases		No Court Action		Court Action					
	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Before Pretrial		During or After Pretrial		Trial	
					Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months
<b>5TH</b>	<b>22,514</b>	<b>10.9</b>	<b>4,961</b>	<b>6.0</b>	<b>15,381</b>	<b>12.2</b>	<b>1,838</b>	<b>13.6</b>	<b>334</b>	<b>20.2</b>
LAE	6,391	26.0	169	0.9	5,315	30.4	861	14.4	46	18.1
LAM	579	12.1	192	10.3	347	12.1	24	16.6	16	35.0
LAW	1,358	12.5	489	8.9	777	14.0	58	20.1	34	24.1
MSN	581	10.6	196	7.9	215	10.4	155	14.2	15	22.2
MSS	1,392	10.8	631	9.2	715	11.7	23	19.5	23	18.4
<b>TX,N</b>	<b>3,200</b>	<b>6.8</b>	<b>603</b>	<b>5.4</b>	<b>2,547</b>	<b>7.1</b>	<b>4</b>	<b>-</b>	<b>46</b>	<b>20.2</b>
TXE	2,234	8.7	572	6.9	1,593	9.0	33	24.4	36	25.5
TXS	4,506	7.5	1,402	4.3	2,454	8.4	581	10.2	69	19.8
TX,W	2,273	7.0	707	6.2	1,418	6.6	99	15.8	49	19.0
<b>6TH</b>	<b>16,864</b>	<b>8.9</b>	<b>4,882</b>	<b>4.6</b>	<b>8,073</b>	<b>9.0</b>	<b>3,737</b>	<b>12.5</b>	<b>172</b>	<b>24.9</b>
KYE	1,187	8.3	158	4.6	994	8.4	24	21.8	11	23.2
KYW	1,114	8.5	323	4.5	752	9.4	31	18.4	8	-
MLE	4,388	7.7	997	3.1	1,559	5.3	1,795	13.2	37	20.4
MLW	1,143	7.0	210	1.7	668	6.8	249	11.9	16	23.1
OH,N	3,239	8.9	864	4.2	1,533	12.5	819	9.6	23	24.7
OH,S	2,266	9.9	869	5.5	717	11.1	654	13.3	26	31.9
TNE	1,238	10.4	578	5.5	509	12.4	132	22.3	19	26.3
TNM	1,208	10.4	175	10.0	1,005	10.2	10	19.3	18	26.3
TN,W	1,081	10.7	708	9.5	336	11.5	23	22.8	14	23.5
<b>7TH</b>	<b>15,666</b>	<b>7.6</b>	<b>4,480</b>	<b>5.4</b>	<b>8,717</b>	<b>6.9</b>	<b>2,270</b>	<b>12.7</b>	<b>199</b>	<b>27.6</b>
IL,N	8,741	6.6	2,519	5.8	5,404	6.2	714	11.5	104	33.7
IL,C	724	9.0	291	7.1	412	9.7	6	-	15	36.7
IL,S	1,141	11.0	519	11.7	589	10.2	11	32.3	22	24.5
IN,N	1,293	9.9	399	3.2	407	8.7	469	16.3	18	29.9
IN,S	2,053	9.2	277	3.4	944	6.9	817	12.5	15	24.8
WIE	1,045	6.7	218	3.2	790	7.2	25	16.3	12	16.4
WI,W	669	6.0	257	2.5	171	6.6	228	11.2	13	16.4
<b>8TH</b>	<b>13,983</b>	<b>12.2</b>	<b>4,887</b>	<b>7.1</b>	<b>8,027</b>	<b>13.6</b>	<b>909</b>	<b>13.3</b>	<b>160</b>	<b>21.9</b>
ARE	4,204	46.3	1,084	47.1	3,091	45.7	5	-	24	19.6
AR,W	863	11.7	121	8.5	722	11.8	3	-	17	18.8
IA,N	406	9.7	85	7.6	311	9.8	1	-	9	-
IAS	507	7.9	89	4.1	308	7.1	99	14.7	11	23.5
MN	2,825	5.4	1,301	2.4	753	5.1	745	12.4	26	23.2
MO,E	2,232	10.6	1,038	9.6	1,159	11.0	9	-	26	22.1
MO,W	2,054	8.4	1,010	4.4	987	11.0	35	17.2	22	18.9
NE	496	9.0	36	2.8	430	9.1	11	17.8	19	28.8
ND	159	8.4	8	-	150	8.5	0	-	1	-
SD	237	11.4	115	10.2	116	12.4	1	-	5	-

APPX074

Table C-5. (March 31, 2013—Continued)

Circuit and District	Total Cases		No Court Action		Court Action					
	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Before Pretrial		During or After Pretrial		Trial	
					Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months	Number of Cases	Median Time Interval in Months
<b>9TH</b>	<b>34,756</b>	<b>6.7</b>	<b>9,346</b>	<b>4.7</b>	<b>22,196</b>	<b>6.8</b>	<b>2,750</b>	<b>13.8</b>	<b>464</b>	<b>23.4</b>
AK	250	9.2	53	7.4	187	9.0	2	-	8	-
AZ	2,538	7.0	82	2.4	2,388	7.0	42	24.2	26	31.0
<b>CAN</b>	<b>5,054</b>	<b>6.4</b>	<b>827</b>	<b>3.6</b>	<b>2,747</b>	<b>4.7</b>	<b>1,424</b>	<b>12.5</b>	<b>56</b>	<b>27.5</b>
CAE	3,046	8.3	1,119	5.8	1,832	9.6	68	18.2	27	30.2
CAC	12,112	5.4	4,097	4.9	7,716	5.5	146	16.8	153	20.0
CAS	2,316	6.7	321	3.5	1,251	5.2	709	12.9	35	26.9
HI	673	9.4	333	7.0	265	9.3	55	22.8	20	15.6
ID	513	10.2	43	1.7	375	9.8	80	19.0	15	27.3
MT	442	9.1	166	4.5	161	8.9	106	14.3	9	-
NV	2,207	8.8	343	6.0	1,753	8.9	84	10.2	27	37.8
OR	1,805	10.1	676	7.3	1,079	11.2	9	-	41	21.4
WA,E	703	9.4	315	4.9	372	13.1	7	-	9	-
WA,W	3,042	6.2	942	2.8	2,051	7.6	11	16.4	38	20.0
GUAM	26	16.2	5	-	16	18.4	5	-	0	-
NMI	29	24.5	24	19.8	3	-	2	-	0	-
<b>10TH</b>	<b>8,600</b>	<b>8.4</b>	<b>2,268</b>	<b>5.0</b>	<b>5,069</b>	<b>8.5</b>	<b>1,100</b>	<b>13.6</b>	<b>163</b>	<b>22.7</b>
CO	2,602	6.0	749	3.7	1,654	6.2	139	18.6	60	23.1
KS	1,305	7.6	373	4.5	808	8.2	102	18.1	22	24.9
NM	890	8.6	316	6.6	332	8.7	226	11.3	16	24.0
OK,N	729	12.0	55	4.1	652	12.3	13	19.8	9	-
OK,E	396	11.7	251	10.3	135	13.1	8	-	2	-
OK,W	1,188	8.7	297	3.7	447	8.1	423	11.7	21	16.4
UT	1,277	11.2	172	6.7	984	10.9	98	22.2	23	38.8
WY	213	10.1	55	5.8	57	6.3	91	12.2	10	15.6
<b>11TH</b>	<b>24,842</b>	<b>7.3</b>	<b>2,243</b>	<b>4.0</b>	<b>20,563</b>	<b>7.2</b>	<b>1,728</b>	<b>12.7</b>	<b>308</b>	<b>18.9</b>
AL,N	2,631	7.9	126	5.3	2,448	7.9	22	25.2	35	21.9
AL,M	639	10.2	51	4.1	532	9.7	41	16.3	15	23.2
AL,S	566	8.4	93	3.7	455	8.8	11	15.8	7	-
FL,N	1,277	7.4	41	3.9	1,210	7.4	12	10.6	14	21.1
FL,M	7,451	10.2	410	5.5	6,833	10.2	129	18.4	79	20.5
FL,S	6,685	5.2	554	3.7	5,918	5.2	96	12.0	117	16.3
GAN	4,236	6.4	480	2.6	2,331	4.7	1,401	11.6	24	20.9
GAM	755	8.7	262	6.0	481	10.3	2	-	10	16.3
GAS	602	8.1	226	5.8	355	9.7	14	25.0	7	-

NOTE: Median time intervals are not computed when fewer than 10 cases reported. This table excludes land condemnations, prisoner petitions, deportation reviews, recovery of overpayments, and enforcement of judgments. Includes cases filed in previous years as consolidated cases that thereafter were severed into individual cases. For fiscal years prior to 2001, this table included data on recovery of overpayments and enforcement of judgments.

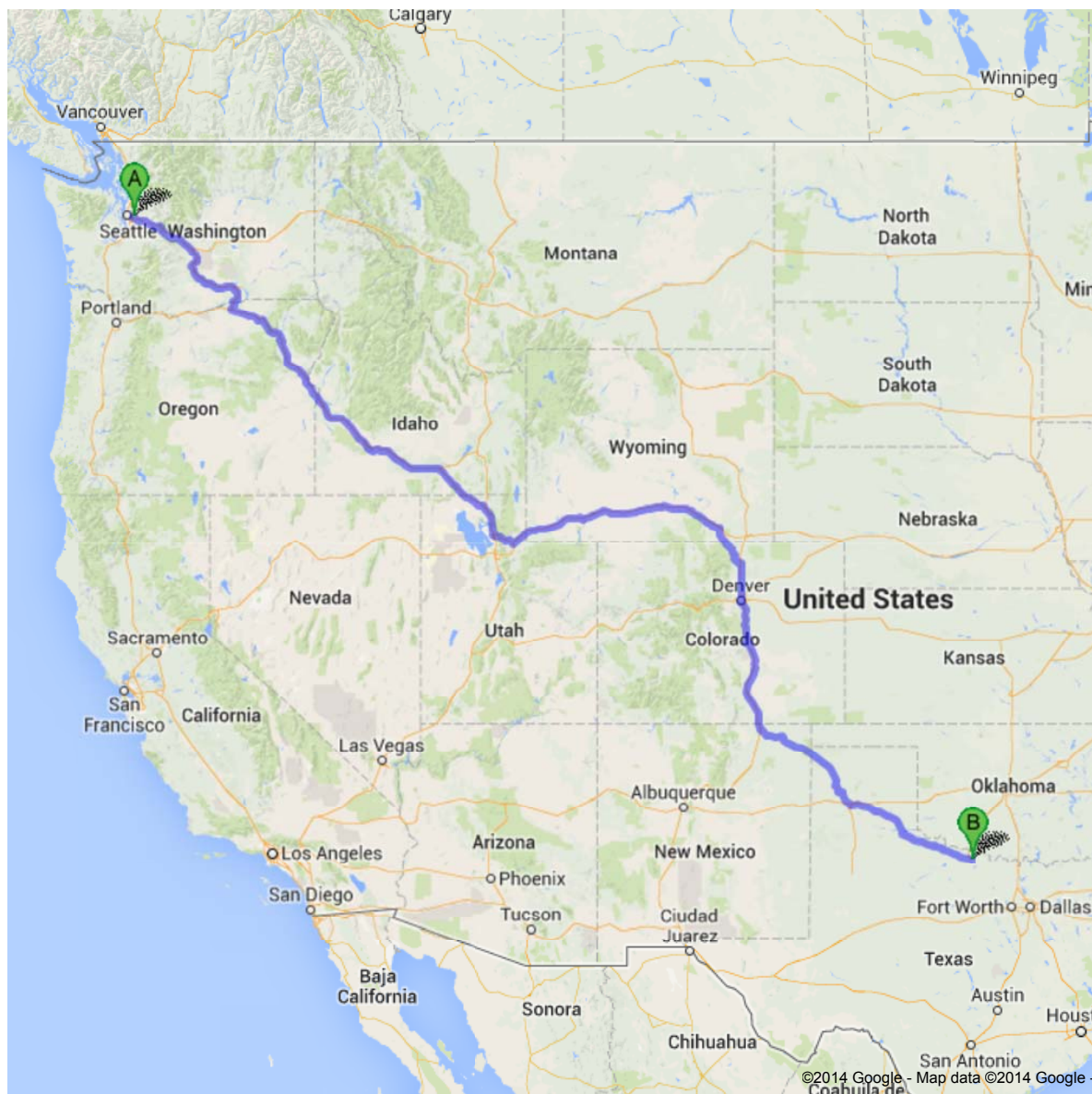
# **Exhibit V**

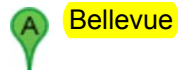


# Exhibit W



















**Directions to Wichita Falls, TX**  
**1,960 mi – about 29 hours**





	1. Head <b>west</b> About 2 mins	go 0.3 mi total 0.3 mi
	2. Turn right onto <b>SE 4th Pl</b>	go 299 ft total 0.4 mi
	3. Turn right to stay on <b>SE 4th Pl</b> About 46 secs	go 0.2 mi total 0.5 mi
	4. Turn left onto <b>128th Ave SE</b>	go 0.2 mi total 0.7 mi
	5. Turn right onto <b>SE 7th Pl</b> About 1 min	go 0.4 mi total 1.1 mi
	6. Continue onto <b>SE 8th St</b> About 59 secs	go 0.4 mi total 1.5 mi
	7. Turn left onto the ramp to <b>I-405 S</b>	go 33 ft total 1.5 mi
	8. Keep right at the fork and merge onto <b>I-405 S</b> About 2 mins	go 1.2 mi total 2.6 mi
	9. Take exit <b>11</b> for <b>I-90 E</b> toward <b>Spokane</b> About 56 secs	go 0.8 mi total 3.4 mi
	10. Turn right onto <b>I-90 E</b> About 1 hour 29 mins	go 100 mi total 104 mi
	11. Take exit <b>110</b> to merge onto <b>I-82 E/US-97 S</b> toward <b>Yakima</b> Continue to follow I-82 E Entering Oregon About 2 hours 4 mins	go 143 mi total 247 mi
	12. Keep left at the fork, follow signs for <b>I-84 E/Pendleton</b> and merge onto <b>I-84 E</b> Entering Idaho About 6 hours 9 mins	go 420 mi total 667 mi
	13. Take the <b>Interstate 84 E</b> exit toward <b>Ogden/Salt Lake</b>	go 0.5 mi total 667 mi
	14. Merge onto <b>I-84 E</b> Entering Utah About 1 hour 50 mins	go 134 mi total 801 mi
	15. Slight right to stay on <b>I-84 E</b> (signs for <b>Cheyenne</b> ) About 36 mins	go 39.0 mi total 840 mi
	16. Keep left at the fork, follow signs for <b>I-80 E/Cheyenne</b> and merge onto <b>I-80 E</b> Entering Wyoming About 4 hours 51 mins	go 342 mi total 1,182 mi
	17. Take exit <b>313</b> for <b>US-287/3rd St</b> toward <b>Ft Collins Colo</b>	go 0.1 mi total 1,182 mi
	18. Keep right at the fork, follow signs for <b>FT Collins</b> and merge onto <b>US-287 S/S 3rd St</b> Continue to follow US-287 S Entering Colorado About 56 mins	go 59.6 mi total 1,242 mi
	19. Turn left onto <b>CO-14 E/US-287 S</b> About 6 mins	go 3.6 mi total 1,245 mi



	20. Turn left onto <b>Jefferson St</b> About 59 secs	go 0.4 mi total 1,246 mi
	21. Continue onto <b>Riverside Ave</b> About 1 min	go 0.6 mi total 1,246 mi
	22. Slight left onto <b>CO-14 E/E Mulberry St</b> About 5 mins	go 3.1 mi total 1,249 mi
	23. Merge onto <b>I-25 S</b> via the ramp to <b>Denver</b> Entering New Mexico About 4 hours 0 mins	go 278 mi total 1,528 mi
	24. Take exit <b>451</b> for <b>US-64 E/US-87 E</b> toward <b>Clayton/Raton</b>	go 0.2 mi total 1,528 mi
	25. Turn left onto <b>US-64 E/Clayton Rd</b> Continue to follow US-64 E About 1 hour 12 mins	go 81.1 mi total 1,609 mi
	26. Continue onto <b>US-87 S/S 1st St</b> Continue to follow US-87 S Entering Texas About 57 mins	go 61.0 mi total 1,670 mi
	27. Take the ramp onto <b>US-385 S</b> About 25 mins	go 28.4 mi total 1,699 mi
	28. Turn left onto <b>Ranch Rd 1061</b> About 5 mins	go 5.8 mi total 1,704 mi
	29. Continue onto <b>Tascosa Rd</b> About 11 mins	go 11.8 mi total 1,716 mi
	30. Continue onto <b>Farm to Market Rd 1061</b> About 58 secs	go 1.1 mi total 1,717 mi
	31. Continue onto <b>Tascosa Rd</b> About 15 mins	go 14.7 mi total 1,732 mi
	32. Turn right onto <b>W Amarillo Blvd</b>	go 0.3 mi total 1,732 mi
	33. Slight left onto <b>Bell St</b> About 3 mins	go 1.4 mi total 1,734 mi
	34. Turn left onto <b>I-40 Frontage Rd</b>	go 0.3 mi total 1,734 mi
	35. Take the ramp on the left onto <b>I-40 E</b> About 11 mins	go 11.4 mi total 1,745 mi
	36. Take exit <b>78</b> to merge onto <b>US-287 S</b> toward <b>Fort Worth</b> About 3 hours 5 mins	go 211 mi total 1,957 mi
	37. Take the <b>I-44 W/US-287 S</b> exit toward <b>Wichita Falls/Ft Worth</b>	go 0.6 mi total 1,957 mi
	38. Merge onto <b>I-44/US-287 S</b>	go 0.6 mi total 1,958 mi
	39. Take exit <b>1D</b> toward <b>US-287 BUS</b>	go 492 ft total 1,958 mi
	40. Merge onto <b>Central Fwy</b>	go 0.2 mi total 1,958 mi
	41. Turn left onto <b>Old Iowa Park Rd</b> About 46 secs	go 0.4 mi total 1,959 mi

Bellevue to Wichita Falls, TX - Google Maps

Page 4 of 4

Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 82 of 102 PageID 1168

42. Continue onto <b>N Scott Ave</b> About 3 mins	go 1.4 mi total 1,960 mi
--	-----------------------------



Wichita Falls, TX

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# **Exhibit X**

Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 84 of 102 PageID 1170

Case 3:11-cv-00367-O Document 574 Filed 04/17/13 Page 209 of 215 PageID 25287

Pate - Direct

Page 43

06:17 1 MR. NELSON: Yes. To my understanding he -- he had  
06:17 2 seen it and he had written it.

06:18 3 THE COURT: All right. Well, I think the document --  
06:18 4 I think the information in the document, at a minimum, is  
06:18 5 admissible as non-hearsay under notice and, as I mentioned in  
06:18 6 the pretrial conference, is also admissible under 80 -- I  
06:18 7 believe it was 801 is my memory this evening, and I will  
06:18 8 conditionally admit it at this time conditioned on me seeing  
06:18 9 the videotape deposition of Peter Yoakum that establishes that  
06:18 10 he authenticated the document --

06:18 11 MR. NELSON: Yes, sir.

06:18 12 THE COURT: -- in the deposition.

06:18 13 MR. NELSON: May I --

06:18 14 THE COURT: Yes.

06:18 15 MR. NELSON: -- show the document?

06:18 16 BY MR. NELSON:

06:18 17 Q. As we've discussed just a minute ago, this is an e-mail  
06:19 18 from Peter Yoakum to a number of people, but you and Mr. Lewis  
06:19 19 are on the list. Is that correct?

06:19 20 A. Correct.

06:19 21 Q. And what does this e-mail relate to?

06:19 22 A. Peter Yoakum is relaying a conversation that he had with  
06:19 23 Wendell Willick and Jason Golding who worked for Point2.

06:19 24 Q. And the subject says notes from Point2 discussion. What  
06:19 25 was going -- what was Mr. Yoakum involved in at this time?

DENVER B. RODEN, RMR  
United States Court Reporter

APPX0206

APPX084

06:19 1 Was he -- was he trying -- was this part of his report on his  
06:19 2 discussions with Point2?

06:19 3 A. So he was looking for additional information from Point2  
06:19 4 and he is updating us on what that -- I believe the intent of  
06:19 5 this is to relay the conversation he had as part of those  
06:19 6 negotiations.

06:19 7 Q. Okay. Let's -- Let's go to -- you've mentioned  
06:19 8 Wendell Willick and Jason Golding. Who are they?

06:19 9 A. Wendell Willick I believe is CEO of Point2 and  
06:19 10 Jason Golding, I'm not sure, is an attorney that works for  
06:20 11 Point2.

06:20 12 THE COURT: Go ahead. I'm sorry.

06:20 13 BY MR. NELSON:

06:20 14 Q. And paragraph one says I know the results of our due  
06:20 15 diligence. So, who is doing the due diligence on the '802  
06:20 16 Patent?

06:20 17 A. Peter Yoakum and I believe he is being assisted by two  
06:20 18 attorneys from Fenwick & West.

06:20 19 Q. Okay. And he said that the commercial value of '802 had  
06:20 20 been compromised by the early disclosures. Do you know what  
06:20 21 he was referring to by early disclosures?

06:20 22 A. He was concerned --

06:20 23 MR. CALDWELL: Objection, Your Honor. It calls for  
06:20 24 hearsay and there's also no foundation for what someone else  
06:20 25 said he said to someone else in a different conversation.

# **Exhibit Y**

Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 87 of 102 PageID 1173

Case 3:11-cv-00367-O Document 574 Filed 04/17/13 Page 192 of 215 PageID 25270

Yoakum - By Video Deposition

Page 138

1 Q. What does that mean? What does that word mean to you?

2 A. Resolution, I'm certain, in the context of this, was just  
3 that we had been working on this transaction since January,  
4 and, you know, it was time to come to some sort of a  
5 conclusion as to where we were going to go with it.

6 Q. And you tell them you have a conference call scheduled for  
7 that day at 2:00 p.m. Pacific time with two individuals,  
8 Mr. Woo and Mr. Granatelli at Fenwick & West. They were your  
9 lawyers on this transaction; correct?

10 A. That's correct.

11 Q. It says during that call we are going to try and come to  
12 and con he \$regarding the information we received during our  
13 due diligence. Do you see that?

14 A. I do.

15 Q. So you had already received information from Point2 during  
16 due diligence another of April 12, 2006. Direct?

17 A. Yes.

18 Q. And your plan was, on a phone call that day with your  
19 lawyers, to try to come to a consensus on that information;  
20 correct?

21 A. That's correct.

22 Q. And you then say, if either of you have any more  
23 information that would be helpful to us in reaching a  
24 conclusion regarding the questions we've posed, it might be a  
25 great time to send it along. Do you see that?

DENVER B. RODEN, RMR  
United States Court Reporter

APPX0189

APPX087



Case 7:14-cv-00014-O Document 91-1 Filed 06/10/14 Page 88 of 102 PageID 1174

Case 3:11-cv-00367-O Document 574 Filed 04/17/13 Page 193 of 215 PageID 25271

Yoakum - By Video Deposition

Page 139

1 A. I do.

2 Q. Do you have a specific recollection as to what information  
3 or what questions you had posed you were talking about there?

4 A. I don't recall specifically, but this points out very  
5 nicely the frustration we were having in obtaining  
6 information. So I was basically saying if you've got any more  
7 information, now would be the time to send it along.

8 Q. I hand you what we're marking as defense Exhibit 5. You  
9 have seen Defendant's Exhibit 5 before, sir?

10 A. Yes.

11 Q. And I want to direct your attention to the e-mail that  
12 says from Peter Yoakum, on DX 5, sent Thursday, April 13,  
13 20006, at 11:12 a.m. This is the next morning after the  
14 e-mail we just looked at, Defendant's 147; correct?

15 A. I see that, yes.

16 Q. And you sent this to Mr. Woo and Mr. Granatelli at Fenwick  
17 & West and you copied three people. Who did you also share  
18 this with on April 13th?

19 A. Scott Lewis, Sarah Pate, Scott Wilson.

20 Q. And why did you share this information with Mr. Lewis,  
21 Ms. Pate, and Mr. Wilson?

22 A. Well, Sarah and Scott were fellow board members for  
23 AdMission. Scott was most actively involved in patent  
24 prosecution and inventing.

25 Q. Were you relying on Mr. Lewis to help evaluate the Point2

DENVER B. RODEN, RMR  
United States Court Reporter

APPX0190

APPX088



1 information?

2 A. I'm not -- no, I'm not -- I don't know that that's  
3 correct, because -- no, I don't believe that's the case.

4 Q. Did you ever talk to him about the e-mail, that you  
5 recall?

6 A. Talk to him about this e-mail?

7 Q. Yes.

8 A. No, I don't believe so.

9 Q. Did you talk to him about the subject matter of this  
10 e-mail at any point, sir?

11 A. I don't believe so.

12 Q. But the purpose of the e-mail was to apprise the board or  
13 keep the board informed, to use your words, about your  
14 discussions with Point2?

15 A. Yes.

16 Q. The e-mail in Exhibit 5 on the first page that carries  
17 over into the second.

18 A. Yes.

19 Q. And it says in the first line, I spoke to Wendell Willick  
20 and Jason Golding today -- which means you had the  
21 conversation ultimately on the 13th of April; right?

22 A. Yes.

23 Q. -- passing along the conclusions from our recent '802  
24 Patent due diligence exercise. Now, '802 Patent means the  
25 Point2 '802 Patent; correct?

1 A. Yes.

2 Q. And so as of Thursday, April 13, 2006, Summit 6's  
3 predecessor had reached conclusions from its due diligence  
4 exercise relating to Point2's '802 Patent. True?

5 A. Yes.

6 Q. And what you go on to say is what follow \$my recollection  
7 of the discussion, that being the discussion you had on April  
8 13 with Point2; right?

9 A. That's what it says, yes.

10 Q. Point one. I noted the results it of our due diligence  
11 demonstrated to us that the commercial value of '802 Patent  
12 had been compromised by the early disclosures. I want to  
13 unpack that sentence a little bit, sir. First of all, another  
14 of April 13, you had results from your due diligence with  
15 respect to the '802 Patent; correct?

16 A. At that point we had, yes, some results.

17 Q. And the result it's of your due diligence at Summit 6 had  
18 demonstrated to you that the commercial value of the '802  
19 Patent had been compromised by the early disclosures; correct?

20 A. That's what this letter -- that's what the sentence says.

21 Q. Sir, is that a true statement or not?

22 A. Well, it's -- I mean, the sentence speaks for itself.

23 Q. I'm asking you, was it true when you said it, sir?

24 A. The commercial value to us had been compromised because of  
25 the lack of the disclosures by Point2.

1 Q. So your testimony is, sir, that you were passing along to  
2 your board in DX 5, your negotiating posture, not the  
3 conclusions of your due diligence exercise.

4 A. That's correct.

5 Q. Who came up with the conclusions of the due diligence  
6 exercise, the lawyers or you?

7 A. Again, I don't think we ever reached a conclusion about  
8 due diligence.

9 Q. And as of April 13, 2006, what were your conclusions about  
10 the '802 Patent from your due diligence exercise?

11 A. That they failed to provide us with sufficient information  
12 to allow us to complete our due diligence as we expected.

13 Q. Is that conclusion you just identified reflected here,  
14 sir, in the ten points that you included in your April 13,  
15 2006 e-mail?

16 A. Agree. I believe it's a team in a lot of them. In point  
17 one of the defense Exhibit 5, you told Ms. Pass the witness  
18 and Mr. Wilson and Mr. Lewis and others that the results it of  
19 your due diligence demonstrate mop stated the commercial value  
20 of the '802 Patent had been compromised by the early  
21 disclosures. Do you see that?

22 A. I do.

23 Q. And the early disclosures refers to Point2 disclosures of  
24 their photo uploading facility; correct?

25 A. Yes. That's -- it was the two that I mentioned earlier,

1 the CD and the software development that they referred to.

2 Q. By software deployment, you understood that to mean the  
3 availability of the photo uploading facility to users on the  
4 internet.

5 A. I think it's more specific than that.

6 Q. What do you mean?

7 A. I think it's the patent -- uploading facility -- because  
8 they had a server side program and they had a client side  
9 program at some later date.

10 Q. Well, sir, you understood the '802 Patent dealt with the  
11 client side processing. Correct?

12 A. I did.

13 Q. And you said the '802 Patent had been compromised by the  
14 early disclosures; correct?

15 A. Yes.

16 Q. So those disclosures that you're talking about are Point2  
17 disclosures of their photo uploading facility with client side  
18 processing. True?

19 A. Yes.

20 Q. And you said the value of the '802 Patent had been  
21 compromised by the early disclosures. What did you mean by  
22 comprised?

23 A. Just that it was less than what we had anticipated going  
24 in.

25 Q. Reduced --



1 A. Yes.

2 Q. -- is another way to --

3 A. Yeah.

4 Q. And so the value of the '802 Patent had been reduced by  
5 the early disclosures by Point2; correct?

6 A. That's what I said here, yes.

7 Q. And it's your testimony, sir, that when you told Ms. Pate,  
8 Mr. Wilson and Mr. Lewis and others that the results of your  
9 due diligence revealed to you that the commercial value of the  
10 '802 Patent had been reduced due to Point2's early  
11 disclosures, that what you were suggesting was not that it --  
12 there had been such early disclosures, but that you just  
13 didn't have enough information on the early disclosures?

14 A. Yes.

15 Q. And where would one glean that -- if you were on the board  
16 or Mr. Lewis or someone else and you're reading that first  
17 sentence, where in that first sentence would I get that from?

18 A. It says -- it says, I noted that the results of our due  
19 diligence demonstrated to us that the commercial value of the  
20 '802 Patent had been compromised by its early disclosures. I  
21 was relating a statement or the essence of a statement that I  
22 made to Wendell Willick and Jason Golding where I was  
23 essentially telling them that the value of the patent was not  
24 what it was in -- that we had originally anticipated because  
25 they did not provide us with the information that we needed.

1 Q. So the second entry on DX 5 is that Summit had concluded  
2 that Summit 6 could have no confidence that the '802 Patent  
3 could be successfully defended in the event we were required  
4 to do so as its assignee.

5 A. I see that.

6 Q. And that's something that you told Point2 was a conclusion  
7 of your due diligence; correct?

8 A. Yes.

9 Q. And that's something you also told, on April 13,  
10 Mr. Lewis, Ms. Pate, and Mr. Wilson?

11 A. As well as Larry and Darrell; correct.

12 Q. Let's look at the third entry on DX 5. You say, Point2's  
13 early disclosure also could seriously impair the value of  
14 several commercially important features contained in '557  
15 claims desperate its earlier filing date. Do you see that?

16 A. I see that, yes.

17 Q. Is that a true statement?

18 A. It's true in that's that's what I sold Jason and Wendell.

19 Q. But when you told Point2 that, were you tell them the  
20 truth?

21 A. I was telling them that we had concerns, yes.

22 Q. So the concerns reflected in the entry No. 3 on DX 5 were  
23 concerns you actually had; right?

24 A. We had -- we had concerns, and we did not obtain  
25 information to allay those concerns. And again, there is this

1 early disclosure issue in the sentence you're describing, and  
2 we did not get the business records that we knew -- that we  
3 knew we needed in order to have a good solid conclusion about  
4 what we were trying to acquire. And what I was conveying here  
5 was that they could -- I was negotiating with Jason and  
6 Wendell and was essentially telling them that there were  
7 problems with '802; and if they couldn't give us the  
8 information that we wanted, we might have a problem and  
9 potentially could impact one or more of our claims.

10 Q. And as of April 13, 2006, you and other members of the  
11 board of Summit 6 knew that Point2's early disclosure could  
12 seriously impair the value of several features claimed in the  
13 '557 Patent. True?

14 A. I -- yes, it could seriously impair.

15 Q. And when you say seriously impair the value of the things  
16 claimed in the '557 Patent, what do you mean?

17 A. I don't know. It could be a problem for a claim being  
18 deemed to be invalid, something like that.

19 Q. So at the time in 2006 that you wrote this e-mail in D  
20 index 5, you were telling Point2 that their early disclosure  
21 could seriously impair some of the claims of the 577 patent;  
22 correct?

23 A. That's what I said, yes.

24 Q. And by seriously impair some of the claims of the '557  
25 Patent, that could mean that the claim would be deemed

1 invalid; right?

2 A. That's correct.

3 Q. And you told that to Point2 in the exhibit, DX 5; and you  
4 also then told that to Summit 6's board as well as Mr. Lewis;  
5 correct?

6 A. I was -- again, I was relating the content of the  
7 conversation that I had with Wendell and Jason.

8 Q. And one of the things you relayed to Ms. Pate and  
9 Mr. Wilson and Mr. Lewis on October 13, 2006 is that you had  
10 said Point2's early disclosure could seriously impair claims  
11 of the 557 patent; right?

12 A. I said that, yes.

13 Q. And by that, you meant that it could potentially have  
14 those claims be invalid. Are correct?

15 A. It could.

16 Q. And you didn't say it might -- those those early  
17 disclosures might just impair the value of the '557 Patent  
18 claims; you said it could seriously impair them; correct?

19 A. Yeah. But I said -- I said it could, not it. I mean, I  
20 was not making a -- an opinion of my own.

21 Q. This was based on the analysis that had been done in due  
22 diligence?

23 A. I think, in general, what it was, was that we were not  
24 getting information that we needed from Point2 in order to  
25 substantiate some of the information that we had learned from



1 them about their early disclosures.

2 Q. If you didn't have the information, how did could it  
3 impair the value of or invalidate your own patent?

4 A. That's why I put "could" in here. Because we didn't have  
5 the answers.

6 Q. But based on what you had been provided, the concern about  
7 the potential invalidation of the '557 Patent was at least  
8 something that had been raised.

9 A. No, I think you're reading too much into it. I do. This  
10 is a statement that I made to Point2 when I was trying to  
11 renegotiate the transaction, lower the amount of money we were  
12 willing to pay up front.

13 Q. You weren't telling them your actual conclusions?

14 A. Well, I don't think I would have told them that the actual  
15 conclusions. Again, I was referring -- I was referring to the  
16 fact that they had not provided the information. That's why,  
17 in the e-mail that preceded this, I said if you've got  
18 anything you want to send to us, now is the time to send it to  
19 us, which was essentially reiterating a whole bunch of  
20 requests for information. We never got it. So I had a  
21 conversation with them and spelled out all of the reasons why  
22 we couldn't pay them what we originally offered.

23 Q. So you uncovered unfavorable information about the early  
24 disclosures it.

25 A. The absence of information was information to us, and it

1 was unfavorable to us that we were not able to get answers to  
2 our questions. The critical information was what we dug up,  
3 which was the CD and then these -- this timeline, to which we  
4 never got any contemporaneous business records.

5 Q. The next bullet says, I stated we may be obligated to  
6 spend more money to improve or resuscitate our own at any  
7 times -- paren S, so potentially plural -- as a result of the  
8 Point2 disclosure. Do you see that?

9 A. Uh-huh.

10 Q. The Point2 disclosure, in bullet five of DX 5, means  
11 Point2's early disclosure of their photo uploading facility;  
12 correct?

13 A. Yes.

14 Q. And improve, we can agree, means make better in some way.

15 A. Uh-huh.

16 Q. What does resuscitate mean?

17 A. If there's a problem that needs to be rectified, maybe it  
18 requires going in and filing a continuation claim or  
19 something. I don't know. I mean --

20 Q. Was that something that had been discussed at Summit 6  
21 after the due diligence, that perhaps unit want to file a  
22 continuation application on the '557?

23 A. I don't believe so.

24 Q. Had it already been discussed that you might do that?

25 A. I -- we were in the process of filing continuation claims

1 separate and apart from the Point2 acquisition.

2 Q. Did you spend more money to improve your resuscitate your  
3 own Summit 6 patents after you learned about this information?

4 A. Not as a result of this information. But we did spend  
5 more money on patents, continuation claims and additional  
6 filings, but I don't think there was any linkage.

7 Q. The PUF or photo uploading facility, that's the Point2  
8 software feature that is the topic of the early disclosures  
9 referenced early in your e-mail; correct?

10 A. Well, no, this says the patent application for photo  
11 upload facility or whatever. So that's all I can read into  
12 it.

13 Q. Well, I understood that the thing you were looking into  
14 and whether or not it was disclosed more than a year before  
15 the filing dates of the '802 and the '557 Patent was Point2's  
16 photo uploading facility.

17 A. Yes.

18 Q. And that's what is referred to by PUF here in point nine;  
19 correct? Photo uploading facility.

20 A. Appears to be, yeah.

21 Q. And you understood that the '802 was a patent that covered  
22 or related to Point2's photo uploading facility; correct?

23 A. Yes.

24 Q. Of all these questions you asked on March 28th, is your  
25 view that they didn't ever answer any of them at Point2?

# **Exhibit Z**

I'm available at 3:15 - 3:45pm today. (650) 335-7151. Larry

From: Peter Yoakum [pyoakum@swiftsurecap.com]  
Sent: Thursday, April 13, 2006 11:12 AM  
To: Darryl Woo; Larry Granatelli  
Cc: Scott Lewis; Sarah Pate; Scott Wilson  
Subject: Notes from Point2 discussion - confidential

I spoke to Wendell Willick and Jason Golding today, passing along the conclusions from our recent 802 due diligence exercise. What follows is my recollection of the discussion.

1. I noted that the results of our due diligence demonstrated to us that the commercial value of 802 had been compromised by the early disclosures. I also mentioned the defect associated with their inventor's declaration.

2. I stated that we had concluded we could have no confidence that 802 could be successfully defended in the event we were required to do so as it's assignee.

3. I stated that Point2's early disclosure also could seriously impair the value of several commercially important features contained in 557 claims, despite its earlier filing date.

4. I stated that we had spent a considerable amount of money (and time) uncovering critical (and unfavorable) information that wasn't disclosed up front.

5. I stated that we may be obligated to spend more \$ to improve or resuscitate our own patent(s) as a result of the Point2 disclosure.

6. I stated that, as a result of these factors, we weren't interested in paying material upfront \$.

7. I suggested two ways we could proceed further:

a. We can unwind the term sheet, cross-license 557 and 802 to each other as the consideration, and then discuss the terms on which 162 might be licensed to them, assuming that the post-processing functions contained in 162 remain on Point2's product roadmap. or,

b. Point2 can transfer 802 to us in exchanged for a non-transferable license to use all three patents, with no \$ up-front, plus a 20% share of net revenues (cumulative licensing revenues, less any resuscitation costs plus a 15% cost of capital) up to \$500k.

8. Wendell did not appear surprised at our position or the new proposal. He stated that he and Jason had learned many new things about the 802 patent during our due diligence process, intimating that they were recognizing less value than they previously thought.

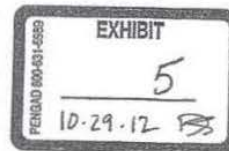
PRIVLEDGED AND CONFIDENTIAL

CONFIDENTIAL

Summit 6 v. RIM et al.

**DX-2029**

3:11-cv-00367-O



SUMMIT6-00113959

APPX189  
APPX101

9. He stated that the idea of filing a patent application for the PUF was pushed on them by their previous owners, Bid.com (who has since gone out of business), rather than being an internally generated initiative.

He stated to me that Point2 had more pressing operating matters than thinking about their IP, especially in light of these revelations.

10. Wendell asked for the weekend to think about this; Jason promised to revert Monday.

I suspect they will accept a Plan B alternative, under the circumstances.

PFY

---

Subject: Follow Up  
Date: Mon, 17 Apr 2006 15:27:11 -0600  
From: Jason Golding <jgolding@point2.com>  
To: Peter Yoakum - Swiftsure <pyoakum@swiftsurecap.com>

Hi Peter,

As a follow-up to our conversation last week, Point2's feelings are that we want to ensure our focus is on our most critical paths at present. As such, we are willing to consider a proposal from you on an alternative deal for the patent but effectively want it to be driven from your end.

In a nutshell, we understand that any deal is likely to be at a discount from what was initially agreed. However, at the same time we do not want to do a deal for insignificant value because it is simply not worth it. As per our discussion, like you, I believe that option 2) is the most desirable as we discussed.

I am assuming that generally the terms and conditions from the original contract are still good for any deal under option 2) and as such all that we need to agree on is the alternative fixed and variable consideration.

If you desire, please provide me with an alternative offer and/or additional discussion points (if necessary) so I can pose them to Wendell to see if it is palatable to him.

Regards,

Jason Golding  
Manager, Business Development/Corporate Law  
Point2 Technologies Inc.  
(306) 955-9736 ext. 215

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CONFIDENTIAL

SUMMIT6-00113960

APPX190  
APPX102

# **Exhibit AA**



## UNITED STATES PATENT AND TRADEMARK OFFICE

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 United States Patent and Trademark Office  
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 P.O. Box 1450  
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
90/012,987	09/10/2013	7765482	347269-000059	7602

34611 7590 05/21/2014  
 LAW OFFICE OF DUANE S. KOBAYASHI  
 P.O. Box 4160  
 Leesburg, VA 20177

EXAMINER
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HEYMAN, JOHN S

ART UNIT	PAPER NUMBER
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3992

MAIL DATE	DELIVERY MODE
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05/21/2014

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.





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***EX PARTE* REEXAMINATION COMMUNICATION TRANSMITTAL FORM**

REEXAMINATION CONTROL NO. 90/012,987.

PATENT NO. 7765482.

ART UNIT 3992.

Enclosed is a copy of the latest communication from the United States Patent and Trademark Office in the above identified *ex parte* reexamination proceeding (37 CFR 1.550(f)).

Where this copy is supplied after the reply by requester, 37 CFR 1.535, or the time for filing a reply has passed, no submission on behalf of the *ex parte* reexamination requester will be acknowledged or considered (37 CFR 1.550(g)).

Control Number: 90/012,987  
Art Unit: 3992

Paper No. 20140519 - Page 2

***Ex Parte reexamination – Final Office Action***

**Preliminary Matters**

***Information Disclosure Statement***

In addition to the IDS filed on 09/10/2013, and already acknowledged on 11/06/2013, the information disclosure statements (IDSs) submitted on 04/24/2014 (1) and on 03/31/2014 (23) were filed after the mailing date of the instant reexam application on 09/10/2013. It is to be noted, however, that where patents, publications, and other such items of information are submitted by a patent owner in compliance with the requirements of the rules, the requisite degree of consideration to be given to such information will be limited by the degree to which the patent owner has explained the content and relevance of the information. In instances where no explanation of citations (items of information) is provided for an information citation, only a cursory review of that information is required. The examiner need only perform a cursory evaluation of each unexplained item of information, to the extent that he/she needs in order to determine whether he/she will evaluate the item further. If the cursory evaluation reveals the item not to be useful, the examiner may simply stop looking at it. This review may often take the form of considering the documents in the same manner as other documents in Office search files are considered by the examiner while conducting a search of the prior art in a proper field of search. The initials of the examiner, in this proceeding, placed adjacent to the citations on the PTO-1449 or PTO/SB/08A and 08B or its equivalent, without an indication in the record to the contrary in the record, do not signify that the information has been considered by the examiner any further than to the

*Ex Parte Reexamination – Final Office Action*

**APPX106**

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extent noted above. See MPEP 609, seventh paragraph, Revision 5, Aug. 2006 [page 600-141].

In order to expedite issuance of reexamination certificates, the Office eliminates printing of the listing of documents on reexamination certificates (See Official Gazette of the USPTO issued on October 11th, 2011, vol. 1371, Number 2, page 95 - "Elimination of the Listing of Prior Art Documents on Reexamination Certificate").

### **Detailed Action**

### **Rejections**

#### **III. A. The Creamer Patent (Ground #1)**

As stated on page 3 of the First Office Action (incorporated herein by reference), Claims 38, 40, 44-46 and 49 remain rejected under 35 USC 102(e) as anticipated by the Creamer patent (US Patent 6,930,709). As stated therein, the details of each of the limitations recited by these claims are shown in the Claim Chart of the Requester on pages 13-20 of the Request which is incorporated herein by reference.

This analysis of the item matching of Claims 38, 40, 44-46 and 49 in the Request by the Requester was accepted, and thus, these claims are held unpatentable under 35 USC 102(e) as being anticipated by Creamer.

#### **B. The Mattes Patent (Ground #2)**

As stated on page 4 of the First Office Action (incorporated herein by reference), Claims 38, 40, 44-46 and 49 remain rejected under 35 USC 102(e) as anticipated by the Mattes patent (US Patent 6,038,295). As stated therein, the details of each of the

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Art Unit: 3992

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limitations recited by these claims are shown in the Claim Chart of the Requester on pages 21-25 of the Request which is incorporated herein by reference.

This analysis of the item matching of Claims 38, 40, 44-46 and 49 in the Request by the Requester was accepted, and thus, these claims are held unpatentable under 35 USC 102(e) as being anticipated by Mattes.

**C. Claim 46 remains unpatentable under 35 USC 103 based upon  
Mattes in view of Creamer (Ground #3)**

In the Response, the Patent Owner does not separately argue the '103 rejection of claim 46 based upon Mattes in view of Creamer, but instead relies on the features of independent Claim 38 to support the patentability of dependent Claim 46. Thus, this claim rejection will stand or fall with the rejection of claim 38.

**RESPONSE TO PO'S ARGUMENTS MADE ON 03/31/2014**

**Response to Patent Owner's remarks on claim interpretation**

**1. Patent Owner improperly narrows the meaning of "specified form"**

In § II(A) of the Remarks, Patent Owner asserts that the Non-Final Rejection, in incorporating the explanation in the Request into the action, dissected the "preprocessing element of claim 38 using a four-part construction" (Remarks, p. 6) resulting in an interpretation inconsistent with the meaning of the '482 patent (Remarks, p. 6). While it is clear that the parts were separated, this was seen done only for the purposes of explanation, not to alter the meaning. As such, Examiner respectfully disagrees that there is any such dissection or misinterpretation of the claimed "pre-

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processing element”. By contrast, Examiner respectfully submits that Patent Owner is reading limitations from the specification into the claims.

In particular Patent Owner asserts that parts labeled “III” and “IV” (Remarks, page 7) were separated, but should be read together, as follows:

III: said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form

IV: in preparation for publication to one or more devices that are remote from a server device and said client device;

From this, Patent Owner concluded that the applied art relied on for teaching this feature, either of Creamer and Mattes, fails to teach that the pre-processing parameters place the digital content into a form that is “in preparation for publication to one or more devices” (Remarks, p. 7, last ¶).

Examiner respectfully maintains (1) that there is no reason to read the explanation of the rejection that way, (2) that Patent Owner’s conclusion is based on reading limitations in to the claims from the specification, and (3) that at least Creamer teaches the claim feature, even as narrowly construed by Patent Owner.

During reexamination, claims are given the broadest reasonable interpretation consistent with the specification and limitations in the specification are not read into the claims (*In re Yamamoto*, 740 F.2d 1569, 222 USPQ 934 (Fed. Cir. 1984)).

The Merriam-Webster online dictionary defines “publication” and “specify” as follows:

Pub-li-ca-tion noun \,pə-blə-ˈkā-shən\

: the act or process of producing a book, magazine, etc., and making it available to the public

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: a book, magazine, etc., that has been printed and made available to the public

: the act of printing something (such as an article or photograph) in a magazine, newspaper, etc.

(<http://www.merriam-webster.com/dictionary/publication>)

Spec-i-fy transitive verb \ˈspe-sə-,fɪ\

: to name or mention (someone or something) exactly and clearly

: to be specific about (something)

(<http://www.merriam-webster.com/dictionary/specify>)

Patent Owner appears to argue that the claim language implicitly requires the choice of “specified form...for publication” to be based on knowledge of the requirements of the “one or more devices”, e.g. the requirements of a particular website:

The act of pre-processing modifies the digital content and places the digital a specific form “in preparation for publication to one or more devices.” Col. 2, line 60 to col. 3, line 6 of the ‘482 Patent describes the act of pre-processing in modifying digital content **to meet certain imaging specifications** for an example web site as follows:

“The benefits of the Prepare and Post tool are . d) to PictureWorks web site partner, access to contributed media 'made to order', it meets their **imaging specifications every time** without human intervention”  
(Emphasis Added)

As this excerpt sets forth, the example act of pre-processing modifies digital content **to meet certain “imaging specifications”** for publication to a web site. This modification enables consistency in **meeting the imaging needs** for publication.

For example, a web site can receive media contributions from millions of different users and know that every image received from every user will meet **their exact specifications** for publication every time. In contrast, if users upload images that fail to adhere to a web site's imaging specifications, then uploaded images can break web site page layouts, and cause web site pages to be slow-loading, unpredictable, and unreliable. Thus, the placement of images into a “specified form” enables uploaded images to be **“made to order” for the web site.**

The ‘482 Patent's description of the act of pre-processing in preparing digital content to **meet certain “imaging specifications”** for publication is consistent with the plain meaning of the recited act of pre-processing in claim 38. In the

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three-part construction, the act of pre-processing places digital content into “a specified form in preparation for publication to one or more devices.” The plain meaning of this uninterrupted recitation clarifies the concept of a “specified form” as being a particular form “in preparation for publication to one or more devices.” Said another way, in being prepared for publication, the digital content has been placed into a **particular** “specified form.”  
(Remarks, p. 8; emphasis added)

As can be seen from the explanation, Patent Owner narrows the meaning of “specified form” to being that form specified by the website, wherein the website is an example of the claimed “one or more devices”, but the claim simply does not say this:

said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form **in preparation for** publication to one or more devices that are remote from a server device and said client device  
(Emphasis added.)

All this claim feature requires is that the pre-processing place the digital content “into a specified form **in preparation for** publication to one or more devices” --**not** that said specified form is **based on the publication requirements** of said one or more devices. The claim, as currently drafted, does not limit the term “specified form” to the publication **requirements** (e.g. “imaging specifications” or “imaging needs”) of the claimed “one or more devices”, as asserted by Patent Owner. In other words, the phrase “in preparation for publication to” does not somehow limit the “specified form” to that form required by the “one or more devices” because the term on its face simply requires the specific form to be “in preparation for publication to” one or more devices rather than “in the required publication form of” the one or more devices. Examiner respectfully maintains that Patent Owner’s interpretation requires reading limitations into

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the claims to limit the term “specified form” to mean, instead, the “specified form

**required by the one or more devices”.**

Patent Owner continues by arguing that the term “specified form” is effectively read out of the claim by the alleged separation of parts III and IV, stating,

Note that the four-part construction of the act of pre-processing has been erected by the Requestor to create an illogical separation between the term “specified form” and the clarifying recitation “in preparation for publication to one or more devices.” This deliberate interpretational concoction **renders the term “specified form” generic, without direction or character.** The four-part construction effectively nullifies the claimed characteristics of the “specified form” in a manner inconsistent with the plain meaning of claim 38 in light of the specification.

(Request, paragraph bridging cols. 8-9; emphasis added)

Examiner respectfully disagrees. A “specified form” can “prepare” digital content for publication to one or more devices without being **directed by** any specific requirement of any specific one of said “**one** or more devices”, as evidenced by the ‘482 patent and the general knowledge of those of skill in the art, and e.g. Creamer. In this regard, as those of skill in the art knew at the time of the ‘482 patent, JPEG, TIFF, and GIF, *inter alia*, are standardized compressed file formats whose purposes necessarily included publication, i.e. preparation of the form or format of digital content on a camera, for example, to make it available to the public, such as by making it viewable on computers (*supra*). In particular, the JPEG format was known by 1999 to be commonly used for publication of photographic images on the web because of its high compression, thereby leading to less storage requirement and faster transfer time. TIFF formats provided less compression and therefore required more storage space and longer transfer times but yielded better images. Thus, one of ordinary skill would have



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chosen the JPEG format for publication on the internet if he wanted the fastest transfers of the images and the least amount of storage required for the images but would have, instead, chosen TIFF if he wanted to publish images of higher quality, as those of skill in the art knew at the time of the invention. Thus, while specifying a JPEG or TIFF format pre-processes a digital image to be placed in a form “**in preparation for** publication to one or more devices”, the selection of the format need may be directed by concerns not necessarily related to any of said “one or more devices”. As such, reading the parts III and IV separately does not read the term “specified form” out of the claims, as alleged by Patent Owner.

That the compression of the digital media into a standardized format, e.g. JPEG, meets the claim limitation of “placement of said digital content into a specified form in preparation for publication to one or more devices” is consistent with the ‘482 patent itself:

The Prepare and Post tools refers to browser-side components which together provide the ability to submit and transport media objects over the web to be stored and served. Using the Prepare and Post tools, end users can submit images in an immediate, intuitive manner. No technical sophistication is required. In particular, understanding technical terms such as **JPEG**, resolution, pixel, kilobyte, transfer protocol, IP address, FTP etc., is not required, since the Prepare and Post tools handles all of these tasks for the user. (The ‘482 patent, col. 2, lines 52-57; emphasis added)

Patent Owner also further admits in the Remarks that compression is an act of pre-processing to place digital content in a specified form in preparation for publication to one or more devices, stating,

As this summary description of the Requestor sets forth, **the act of compressing** the digital image (**i.e., an example act of pre-processing**) modifies the digital image to meet certain “publication specifications.”

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(Remarks, p. 10, 1st sentence; emphasis added)

Based on the foregoing, then, even though a user may specify a form, e.g. the JPEG or TIFF format, *inter alia*, for the stored image on a digital camera “in preparation for publication to one or more” computers, the compression format may be chosen on the basis of merits of a particular compression of the published image and/or because the standardized formats are more likely to be recognized by computers than non-standardized formats. Thus, while choosing a compression format meets the claimed requirement of “said one or more pre-processing parameters controlling said client device [e.g. digital camera] in a placement of said digital content [e.g. image file on the camera] into a specified form [e.g. JPEG or TIFF format] in preparation for publication to one or more devices [e.g. computers] that are remote from a server device and said client device”, there is simply no requirement that the selected format is a requirement dictated by the “one or more devices”, as Patent Owner asserts.

Consequently, there is no reason to conclude, as Patent Owner has done, that reading the parts III and IV separately reads the term “specified form” out of the claims. Nor is there any reason to conclude that reading portions III and IV separately somehow narrows the meaning of the term “specified form” to that form required by **any specific one** of the “one or more devices”, e.g. web sites, as asserted by Patent Owner.

As to Patent Owner’s continued reliance on the “Prepare and Post” tool from the ‘482 specification (Remarks, pp. 9-10), this limits the claimed “devices” to web sites and the claimed “specified form” to the requirements of each specific web site. The claims are simply not so limited because the devices are not limited to individual web sites, as

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discussed above. A general computer still qualifies as the claimed “one or more devices” without also being a web site.

As to Patent Owner’s allegation that the Requester “recognized the act of pre-processing in the ‘482 Patent as modifying digital content to meet a particular publication” (Remarks, paragraph bridging pp. 9-10), Examiner respectfully disagrees because the Request indicated it was discussing “[t]he disclosed **embodiment**” (Request, p. 3, 1<sup>st</sup> sentence) in the ‘482 patent, not that it was Requester’s attempt to assert either its own understanding of the meaning of any particular claim term or that understanding of a person having ordinary skill in the art. So it is unclear as to how Patent Owner arrived at the conclusion that the Requester was somehow setting forth its position on claim construction, when the facts show the Requester was simply discussing “[t]he disclosed **embodiment**” (*id.*) of the ‘482 patent.

To any extent that Patent Owner is asserting that those of skill would limit the claim terminology, above, in the manner that Patent Owner has done (Remarks, ¶ bridging pp. 9-10, and p. 10, 1<sup>st</sup> full ¶), Examiner respectfully disagrees for the same reasons as discussed above and furthermore notes that Patent Owner failed to provide any factual objective evidence to support this position. Accordingly, Examiner respectfully disagrees with Patent Owner’s conclusion regarding its interpretation of the claim (at Remarks, p. 10, 2<sup>nd</sup> full ¶) because it reads limitations from the specification into the claims, improperly narrowing the “specified form” to “specified form **required by the one or more devices**”.

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Finally, to the extent that Patent Owner is arguing that the claims somehow require a user to have knowledge of the publication **requirements** of the claimed “one or more devices”, the argument is flawed because it is predicated on the notion that if the camera user knows that JPEG format is a requirement of computers to be able to view the image (i.e. the claimed “one or more devices”), then the user is infringing the claim, but if the same user is unaware of this requirement and still chooses the JPEG format, i.e. **without** knowledge of the requirements of the same computer, then the user would **not** be infringing the claim, even though he is carrying out exactly the same step by specifying a format for the digital images. Examiner respectfully maintains that the intent of the user cannot be the thing that distinguishes the claimed method over the art.

## 2. Intended use

In § II(B) of the Remarks (at pp. 10-12), Patent Owner asserts that the claim term “said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device” does not include a statement of intended use. While this was a question raised during the interview, it was not a question raised in the Non-Final Rejection mailed 01/31/2014. As such, Patent Owner’s explanation is accepted. Nonetheless, Examiner respectfully maintains that Patent Owner has improperly narrowed the meaning of this claim feature for the reasons indicated above.

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### **Response to Patent Owner's Remarks on the Rejections**

1. As noted above, Claims 38, 40, 44-46, and 49 remain rejected under 35 USC 102(e) as anticipated by Creamer

In § III(A) of the Remarks, Patent Owner contends that Creamer does not anticipate claims 38, 40, 44-46, and 49. Examiner respectfully disagrees for the reasons that follow.

**a. Creamer discloses the claim feature “said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device”**

In § III(A)(i) of the Remarks, Patent Owner argues that Creamer does not disclose the claim feature “said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device”. However, Patent Owner predicates the argument on the basis of the improperly narrow interpretation that “specified form” must be interpreted as the “specified form **required by the one or more devices**” (Remarks, p. 13), even though there is no such explicit or implicit requirement in the claims, as discussed above.

Patent Owner asserts,

The Office Action has not identified where Creamer describes or suggests (1) a **certain specification** for publication to a personal computer 310, and (2) one or more pre-processing parameters provided to the client device for use in the act of pre-processing to modify digital content **to meet a certain specification** for publication to a personal computer 310.

Moreover, the Office Action has not identified a **particular publication need** met by the asserted pre-processing of Creamer. Creamer appears silent as to the specifications required for accessing images in a user's shell account. (Remarks, p. 14; emphasis added)

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At the outset, Patent Owner is demonstrably wrong to suggest that the Non-Final Rejection did not identify these elements, to any extent that they are actually claimed. The Non-Final Rejection incorporated by reference the explanation in the Request as to how each of the claim features was met by Creamer:

Claims 38, 40, 44-46 and 49 are rejected under pre-AIA 35 U.S.C. 102(e) as being anticipated by the Creamer patent (cited above). **The details of each of the limitations recited by these claims are shown in the Claim Chart of the Requester on pages 13-20 of the Request (incorporated herein by reference).**

This analysis of the item matching of Claims 38, 40, 44-46 and 49 in the Request by the Requester is accepted, and these claims are held unpatentable under 35 USC 102(e) as being anticipated by Creamer.  
(Non-Final Rejection, p. 3; emphasis added)

As to the feature Patent Owner asserts un-discussed by the Non-Final Rejection, the incorporated Request states,

- "said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form"

The compression parameter controls the **JPEG compression** for the digital image into the specified form. Creamer at **11:27-31**; 310 Application at pg. 17, lines 6-8 ("The microcontroller 200 controls the compression engine 224 to compress an image or images held in the image memory, according to attributes assigned to that particular image (as described later), including compression to a desired (e.g., **JPEG) compression level.**"); **19:9- 20**; 310 Application at pg. 26, lines 1-8 ("In step S38, the compression engine 226 is controlled by the microcontroller 200, according to settings stored in the IMAGE:FILES:IMAGE ADJUST, to compress the image in the image memory 220 to the appropriate slot (identified in steps S28 or S30) in the GP memory 226. If the MISC OPTION: ADAPTICE parameter is set to change (e.g., reduce or increase) the image compression depending on the data rate, the compression engine 226 is then set to increase the compression level by a predetermined amount if the data rate is lower than a predetermined rate, or decrease the compression level by a predetermined amount if the data rate is higher than a predetermined rate.")  
(Request, pp. 15-16; emphasis added)

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Thus, the Non-Final Rejection did in fact discuss the claim features. That Patent Owner wishes to re-contrue the claim by inserting limitations into the claims from the specification is perhaps another story.

First, as explained above, Examiner respectfully maintains that the claims, as currently drafted, do not require the specified form be dictated by any requirement of the “one or more devices”.

Second, as those of skill in the art knew at the time of the ‘482 patent, JPEG, TIFF, and GIF, *inter alia*, are standardized compressed file formats whose purposes necessarily included publication, i.e. dissemination of media, including digital images, via the internet and other means (*supra*) --versus the file format specific to Creamer’s own camera, i.e. whatever format the “images held in the image memory” is in before the compression engine 224 modifies the image (Creamer quoted in Request at pp. 15-16, *supra*). Therefore, selection of the specific kind of compression format, at least one of JPEG, TIFF, or GIF, would have been selected by the user of Creamer’s internet camera, for publication on the internet at least based on the user’s understanding of the merits of each format (Creamer, Figs. 4A and 4B; col. 8, lines 19-34). In particular, the JPEG format was known by 1999 to be commonly used for publication of photographic images on the web because of its high compression, thereby leading to less storage and transfer time, as those of skill in the art would readily appreciate. Therefore, the user of Creamer’s camera would have chosen the JPEG format for publication on the internet if he wanted the fastest transfers of the images and the least amount of storage space required for the images.

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In other words, while there was intent in developing the standardized formats for the digital images in said formats to be widely available on computers, thereby facilitating publication, there is no requirement that a person of ordinary skill in the art would have recognized the inherent disclosure at the time of invention (i.e. that the selection of a standardized format such as JPEG prepares a digital image to be viewable on most computers), but only that the subject matter is in fact inherent in the prior art reference. *Schering Corp. v. Geneva Pharm. Inc.*, 339 F.3d 1373, 1377, 67 USPQ2d 1664, 1668 (Fed. Cir. 2003) (rejecting the contention that inherent anticipation requires recognition by a person of ordinary skill in the art before the critical date and allowing expert testimony with respect to post-critical date clinical trials to show inherency); see also *Toro Co. v. Deere & Co.*, 355 F.3d 1313, 1320, 69 USPQ2d 1584, 1590 (Fed. Cir. 2004) (“[T]he fact that a characteristic is a necessary feature or result of a prior-art embodiment (that is itself sufficiently described and enabled) is enough for inherent anticipation, even if that fact was unknown at the time of the prior invention.”) See also MPEP 2112(II). Thus, there is no requirement for the user of Creamer’s camera to have recognized that the placement of the digital images into a format such as JPEG, TIFF, or GIF for subsequent publication, i.e. placement into the internet-available shell accounts 306, 314, would have made them readable, i.e. “meet[ing] a certain specification of a personal computer” (Remarks, *supra*) 310 because this feature is inherently present in the user having selected a standardized compression format.



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To be sure, Creamer's intent is to make the images available for viewing by the public on the internet (Creamer, e.g. col. 2, line 48 to col. 3, line 49, and Figs. 4A and 4B), which meets the definition of "publication" (*supra*). Creamer states, for example,

It is a further object of the invention to provide a portable, standalone camera that may initiate and independently control scheduled transmission of digital images to the Internet, where the **images become available to any authorized user on the Internet.**

(Creamer, col. 2, lines 55-59; emphasis added)

The digital image files in the user directory of the destination shell account are then **available to the accessing device accessing the Internet.**"

(Creamer, col. 3, lines 35-38; emphasis added)

Third, even if, *arguendo*, there were a requirement in the claim for knowledge of the requirements for "certain specifications" (Remarks, *supra*) of the "one or more devices" in order to meet the claim feature, "said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices", Examiner submits that the intent is at least implicit, in Creamer. Even if the camera user has to select from among formats for the digital images, a user of the camera would recognize that this choice is not random but is, instead, directed by some requirement of a computer's ability to read the specified format type, e.g. JPEG or TIFF or GIF, especially given that Creamer's intent is to make the images available for viewing on the internet (Creamer, *supra* and Figs. 4A and 4B). At least, JPEG appears to meet this requirement, based on the admissions in the '482 patent and in Patent Owner's Remarks, as discussed above.

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As such, Examiner respectfully maintains that it is unreasonable for Patent Owner, on the one hand, to acknowledge that a compression format, such as JPEG or TIFF or GIF, can be set for the digital images on Creamer's internet camera for **posting on the internet to be viewed by others using personal computers** (much the same as selecting a language for a book to be placed in a bookstore or library), but then, on the other hand, to infer that the user of the internet camera would fail to consider the compatibility of the file format requirements of the computers on which the user wished to make her digital images available. This would be as unreasonable as a publisher of an American book to randomly choose any of the languages, Mandarin, Farsi, German, and English, for a book to be located in an American bookstore or library, without considering the primary language of those reading the book, i.e. Americans. While the other languages may have their merits, English would be the clear choice. Similarly, a person choosing a file format for her digital images on her internet camera would not ignore the requirements of the personal computers on which the digital images would be expected to be viewed. Hence, selection of a standardized compression format, e.g. JPEG, TIFF, GIFF, etc., in Creamer, is at least implicitly selected by the camera user on the basis of the needs of the personal computers 310 on which she expects her digital images will be viewed. To assert otherwise, as Patent Owner has done, is simply unreasonable.

To the extent that Patent Owner may be contesting that Creamer did not discuss that its internet-camera user would understand the notoriously well-known facts about compression formats, e.g. JPEG, TIFF, and GIF, etc. (Creamer col. 8, lines 19-34)

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being for publication (definition *supra*), this does not negate (1) what those of skill in the art knew about standardized compression formats at the time of Creamer and of the '482 patent, or (2) that by Creamer's disclosing that the internet camera used specifies one of several standardized formats, (JPEG, TIFF, GIF, etc.) it is proven that the user would have had the information about each of the formats available to him/her at least at the time of Creamer.

**b. Creamer is concerned with publication of digital photographs on the internet**

Continuing in § III(A)(i) of the Remarks, Patent Owner argues that "Creamer's apparent focus is on a solution for a single user to configure their own Internet/Intranet camera for the **storage of image files** into their own shell account." (Remarks, p. 14, paragraph bridging pp. 14-15; emphasis added.) This is demonstrably wrong. Creamer's focus is on making digital images taken on its internet camera accessible to viewer over the internet, as evidenced by at least Creamer's Figs. 4A and 4B showing a plurality of personal computers 310 accessing the stored images. It is further evidenced at least by the following associated passages from Creamer that were already quoted above:

It is a further object of the invention to provide a portable, standalone camera that may initiate and independently control scheduled transmission of digital images to the Internet, where the **images become available to any authorized user on the Internet.**

(Creamer, col. 2, lines 55-59; emphasis added)

The digital image files in the user directory of the destination shell account are then **available to the accessing device accessing the Internet.**"

(Creamer, col. 3, lines 35-38; emphasis added)

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Thus, Creamer is transparently concerned with publication of the digital images taken on its internet camera, i.e. making the digital images available to the public. (See definition of “publication”, *supra*.) As such, Examiner respectfully disagrees with Patent Owner's contention that Creamer is concerned merely with storage of the images. No one takes a picture for posting to the internet in an attempt to hide said picture; rather, it is for the purpose of sharing the pictures with the public.

**c. Creamer discloses the “provision of pre-processing parameters to a client device”**

Finally in in § III(A)(i) of the Remarks, Patent Owner argues,

Claim 38 recites “said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices.” [1] The Office Action has not identified where Creamer discloses or suggests certain specifications that are purposed for the publication of digital content to one or more devices. [2] Moreover, the Office Action has not identified where Creamer discloses or suggests **the provision of** pre-processing parameters to a client device that are configured to control the act of pre-processing to meet certain specifications for publication to one or more devices.

(Remarks, p. 15, 1st full ¶; emphasis added)

As to [1], this is merely a restatement of the same argument already made in paragraphs 3 and 4 on p. 14 of the Remarks, which was just addressed above.

As to [2], Patent Owner is, again, demonstrably wrong to assert that the Non-Final Rejection somehow fails to discuss how Creamer discloses the “provision of” the pre-processing parameters. Although Patent Owner seems to have stated the wrong claim feature that addresses the **provision** step of the preprocessing parameters, which reads instead as,

said one or more pre-processing parameters being **provided to** said client device from a device separate from said client device.

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As noted above, the Non-Final Rejection incorporated by reference the explanation in the Request as to how each of the claim features was met by Creamer (Non-Final Rejection, p. 3). In regard to this feature the Request shows that the claimed provision step is met by Creamer:

- "said one or more pre-processing parameters being provided to said client device from a device separate from said client device,"

All parameters in Figure 5, including the compression parameters, can be **provided to the Internet Camera from the Internet. Creamer** at Figs. 4A and 4B and 24:9-14; 310 Application at pg. 33, lines 19-22. Also, they can be provided to the Internet Camera by a setup PC. Creamer at Figs. 4A, 4B, 17 and 20 and 28:57-29:4; 310 Application at pg. 43, lines 6-7.

In addition to the parameters in Figure 5, all firmware may be provided in the same two ways. Creamer at 27:30-47; 310 Application at pg. 39, lines 3-11 ("may write or overwrite the firmware in the NVRAM 242").

Accordingly, everything the Internet Camera does is based on parameters **provided from a device separate from the Internet Camera (either from the Internet or a setup PC).** (Request, p. 15; emphasis added)

Creamer at the Request's cited locations states,

In this manner, the user may place a setup or configuration file in his destination directory in a predetermined format recognizable by the camera 1, and the camera may download a new or modified full or partial set of operational parameters (e.g., those shown in FIG. 5) permitting remote control of camera operation. (Creamer, col. 24, lines 9-14; emphasis added)

In general, **any function initiated via the buttons, triggers, timers, or events as described herein, may also be directly initiated via an appropriate command received via the port 210.** The camera 1 is responsive to the commands received from dedicated or general purpose software on an attached PC 216 that may receive data, command results, and images from the camera 1, and that transmits control data, commands and images to the camera 1; or that may write or overwrite the firmware in the NVRAM 242 (e.g., O/S, TCP/IP or

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other protocol stack, FTP or other file transfer application, card drivers, and other drivers and applications).

Accordingly, using the command routines, a user may initiate any operation of the camera 1 via, e.g., internal commands, or external commands sent over the serial/IrDA port 210.

(Creamer, col. 28, line 57 to col. 29, line 4; emphasis added)

Moreover, with regard to setting parameters, e.g. the compression format, and any of the other parameters shown in Fig. 5, over the internet, Creamer more generally states,

The integrated Internet camera may further include a **configuration device**, which includes a configuration information **retrieving** device and a configuration **setting** device. The configuration information **retrieving** device **retrieves configuration information from the destination shell account**, while the configuration **setting** device **sets operational parameters** of one or more of the image capturing circuit, the network interface device, the file transfer device, transport control device, the transmission initiating device, and the first scheduling device, **according to the configuration information**.  
(Creamer, col. 4, lines 32-42; emphasis added)

Thus, the Non-Final Rejection did, in fact, show the claimed provision step “said one or more pre-processing parameters being **provided to** said client device **from a device separate from said client device**”, i.e. from a PC attached via wire or via the internet.

Patent Owner does not separately argue remaining Claims 40, 44-46 and 49.

2. As noted above, Claims 38, 40, 44-46, and 49 remain rejected under 35 USC 102(e) as anticipated by Mattes

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In **§ III(B)** of the Remarks (pp. 15-17), Patent Owner contends that Mattes does not anticipate claims 38, 40, 44-46, and 49, for essentially the same reasons that were applied to Creamer. Examiner respectfully disagrees.

Patent Owner argues that Mattes does not disclose the same claim feature allegedly absent in Creamer, namely, “said one or more pre-processing parameters controlling said client device in a placement of said digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device”. Again, Patent Owner’s arguments are predicated on an improperly narrow construction of the claim feature “specified form” meaning “specified form **required by the one or more devices**”, which simply is **not** claimed. As will be explained in more detail below, Examiner does, however, agree with Patent Owner, that Mattes, unlike Creamer, does not **necessarily** disclose that the “pre-processing parameter [i.e. the quantizing factor for compression] provided to said client device [i.e. the telephone unit TE] from a device separate from said client device [i.e. the control unit ST of the server]” is **necessarily** directed by a requirement of the one or more devices on which the digital images will ultimately be viewed. Examiner uses “necessarily” because it is not clear that this is the reason, as will become apparent in the subsequent explanation.

Mattes unambiguously discloses each of the features of claim 38 given the broadest reasonable interpretation of the claims, including the features Patent Owner alleges are absent. With regard to the claim step at issue, step b:

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b. pre-processing said selected digital content in accordance with one or more pre-processing parameters that are received from a remote device to produce pre-processed digital content,

said one or more pre-processing parameters enabling said client device to place said digital content into a specified form in preparation for publication to one or more devices that are remote from a server device and said client device;

While the Request at pages 22-23, which was incorporated into the Non-Final

Rejection, clearly shows that Mattes discloses each of the above claim features,

Examiner provides the following similar discussion.

Mattes discloses a telephone unit TE that includes a “digital image recorder” or “digital image pick up unit”, which functions as a digital camera, and a processor P for compressing the images using a JPEG compression method:

The telephone unit has a telephone portion and at least one **digital image recorder** which has the **function of a digital camera**, a telephone unit memory for storing the digital images taken by the digital camera and a **data processor for processing the digital image data**.

(Mattes, col. 2, lines 24-28; emphasis added)

The telephone unit also includes a digital image pick up unit for recording images, the **digital image pick up unit** being integrated into the telephone unit TE. In **FIG. 2**, the telephone unit TE includes a lens LI and a view finder SU and may possibly include a photoflash BL.

(Mattes, col. 5, lines 58-62; emphasis added)

The **digital image pick up unit** operates as a **digital photo camera** of the type which is known. A telephone unit memory TS is provided for storing the images registered by the digital image pick up unit in digital form in the telephone unit TE. **The digital images may be compressed using still picture image data compression methods such as JPEG. The compression method is implemented using a data processor P** which includes a memory RAM. The data processor P serves for processing the digital images.

(Mattes, col. 5, lines 1-8; emphasis added)

Mattes discloses that a different device from the telephone unit TE, specifically elements of the server, (1) determines the quality of the image (using the server's image



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quality analysis unit BAE) and (2) controls the image resolution (via compression). The image quality of a digital image being transmitted is determined using the server's image analysis unit BAE:

In one embodiment, the servers [sic; server] includes an **image analysis unit BAE** which **determines the quality of the digital image that is provided to the server S**. For example, the noise level within the digital image is determined by the image analysis unit BAE and the quality of the image is estimated depending upon the amount of noise which is detected.

In addition, a **control unit ST** is provided in the **server S** in one embodiment of the communication system. The **control unit ST controls the image resolution of the digital images using the image compression in the telephone unit**, for example. In particular, image compression methods utilize a control parameter to set the **image compression level for the digital images such as the quantizing factor in a JPEG** (joint photographic expert group) image data [sic; data] compression. The control unit ST determines this quantizing factor to be used to obtain the desired image quality.  
(Mattes, col. 5, lines 14-30; emphasis added)

Mattes also explains how the BAE and ST may function together:

It is advantageous to provide an **image analysis unit [BAE] in the server [S] to determine the quality of the digital images** so that the relationship between the required image quality and the data transmission rate in the transmission system may be improved. **When the image quality which is required is higher than the image quality which is supplied, then a higher image resolution for the digital images may be requested by the server from the telephone unit** according to yet another development of the present invention. When, on other hand the image quality transmitted by the telephone unit is higher than that required in the server, then a **lower data transmission rate can be set and a lower image quality can be requested from the telephone unit**. Thus, the present communication system may include a **control unit [ST] in the server [S] for controlling the resolution of the digital images in the telephone unit** and/or for controlling the transmission rate of the data to be used in the transmission system. The transmission rate and the costs for the transmission of the digital images can thereby be reduced.  
(Mattes, col. 4, lines 18-37; emphasis added)

Thus, Mattes unambiguously shows that the compression level (i.e. a "pre-processing parameter") for the digital image is provided to the telephone unit TE from

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the control unit ST of the server S upon the image quality analysis unit BAE determining whether the image resolution is too low or too high. The telephone unit's image compression processor P then modifies the compression according to compression level received from the server's control unit ST (because the "control unit ST controls the image resolution of the digital images using the image compression **in the telephone unit**"; *supra*) and then re-transmits the digital image.

With the above in mind then, Mattes discloses

b. pre-processing said selected digital content in accordance with one or more pre-processing parameters [the compression level] that are received from a remote device [the server's control unit ST] to produce pre-processed digital content [the digital image having the altered compression level],

said one or more pre-processing parameters [the compression level] enabling said client device to place said digital content [a digital photograph] into a specified form [the digital image having the altered compression level] **in preparation for publication to one or more devices that are remote from a server device and said client device**;

As to the final portion of the claim feature, highlight in bold, Mattes discloses this too because Mattes makes the digital images available to the public via a public mailbox or by posting to web:

It is a particular advantage to utilize the present invention in conjunction with the connection to the **Internet**. For example, the images may be automatically stored or archived on the basis of the classification information OM in either a **public** or private **mailbox on the Internet**. The recorded images may be **forwarded to a server via the Internet or may be directly displayed on a page of the World Wide Web**.

(Mattes, col. 8, lines 28-35; emphasis added)

As noted above, while Examiner readily acknowledges that Mattes does not expressly indicate the compression level set for the digital image is a specified form **dictated by a requirement of the one or more devices** on which the picture will

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ultimately be viewed, no such requirement is **claimed**. The claim only requires that the pre-processing parameters “place said digital content into a specified form in preparation for publication to one or more devices”, and Mattes clearly modifies the digital image “in preparation for publication to” the internet (*id.*). Examiner respectfully maintains that “in preparation for” cannot be limited to meaning “dictated by a requirement of the one or more devices”, as this reads limitations into the claims from the specification.

While it is also acknowledged, as Patent Owner notes, that Mattes discusses the compression level control is used in conjunction with functions other than those expressly for publication, such as storage and archiving of the digital images (Remarks, p. 16, 2<sup>nd</sup> full ¶), it does not negate that the compression level places the digital images into a specified form (i.e. the form specified by the server’s BAE and ST) in preparation for their ultimate publication on the internet. There is no requirement for the publication function to direct the choice of compression level, i.e. the claimed “specified form” because there is no claimed requirement for this, as amply discussed in section A of these arguments, above. Nor is there a requirement for publication to be the focus of Mattes because “[t]he use of patents as references is not limited to what the patentees describe as their own inventions or to the problems with which they are concerned. They are part of the literature of the art, relevant for all they contain.” *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (quoting *In re Lemelson*, 397 F.2d 1006, 1009, 158 USPQ 275, 277 (CCPA 1968)). See also MPEP 2123(I).

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As with the Creamer rejection above, claims 40, 44-46 and 49 are not separately argued.

### **Conclusion**

Claims 38, 40, 44-46, and 49 remain unpatentable as being anticipated under 35 USC 102(e) by Creamer and Mattes.

### **THIS ACTION IS MADE FINAL.**

A shortened statutory period for response to this action is set to expire 2 from the mailing date of this action.

**Extensions of time under 37 CFR 1.136(a) do not apply in reexamination proceedings.** The provisions of 37 CFR 1.136 apply only to “an applicant” and not to parties in a reexamination proceeding. Further, in 35 U.S.C. 305 and in 37 CFR 1.550(a), it is required that reexamination proceedings “will be conducted with special dispatch within the Office.”

**Extensions of time in reexamination proceedings are provided for in 37 CFR 1.550(c).** A request for extension of time must specify the requested period of extension and it must be accompanied by the petition fee set forth in 37 CFR 1.17(g). Any request for an extension in a third party requested *ex parte* reexamination must be filed on or before the day on which action by the patent owner is due, and the mere filing of a request will not effect any extension of time. A request for an extension of time in a third party requested *ex parte* reexamination will be granted only for sufficient cause, and for a reasonable time specified. Any request for extension in a patent owner

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requested *ex parte* reexamination for up to two months from the time period set in the Office action must be filed no later than two months from the expiration of the time period set in the Office action. A request for an extension in a patent owner requested *ex parte* reexamination for more than two months from the time period set in the Office action must be filed on or before the day on which action by the patent owner is due, and the mere filing of a request for an extension for more than two months will not effect the extension. The time for taking action in a patent owner requested *ex parte* reexamination will not be extended for more than two months from the time period set in the Office action in the absence of sufficient cause or for more than a reasonable time.

The filing of a timely first response to this final rejection will be construed as including a request to extend the shortened statutory period for an additional month, which will be granted even if previous extensions have been granted. In no event, however, will the statutory period for response expire later than SIX MONTHS from the mailing date of the final action. See MPEP § 2265.

### **Litigation Reminder**

The patent owner is reminded of the continuing responsibility under 37 CFR 1.565(a) to apprise the Office of any litigation activity, or other prior or concurrent proceeding, involving the base patent throughout the course of this reexamination proceeding. The third party requester is also reminded of the ability to similarly apprise the Office of any such activity or proceeding throughout the course of this reexamination proceeding. See MPEP §§ 2207, 2282 and 2286.

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### **Correspondence**

**All** correspondence relating to this *ex parte* reexamination proceeding should be directed as follows:

By **U.S. Postal Service Mail** to:

Mail Stop *Ex Parte* Reexam  
ATTN: Central Reexamination Unit  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

By FAX to: (571) 273-9900  
Central Reexamination Unit

By hand to: Customer Service Window  
Randolph Building  
401 Dulany St.  
Alexandria, VA 22314

By EFS-Web: Registered users of EFS-Web may alternatively submit such correspondence via the electronic filing system EFS-Web, at

<https://efs.uspto.gov/efile/myportal/efs-registered>

EFS-Web offers the benefit of quick submission to the particular area of the Office that needs to act on the correspondence. Also, EFS-Web submissions are "soft scanned" (i.e., electronically uploaded) directly into the official file for the reexamination proceeding, which offers parties the opportunity to review the content of their submissions after the "soft scanning" process is complete.

Any inquiry concerning this communication should be directed to John Heyman at telephone number 571 272-5730.

Signed:

/John Heyman/  
Primary Examiner,  
Art Unit 3992

Conferees:

/Erik Kielin/  
Primary Examiner, Art Unit 3992

/Andrew J. Fischer/  
Supervisory Patent Reexamination Specialist, Art Unit 3992

# **Exhibit BB**

Case 7:14-cv-00014-O Document 91-2 Filed 06/10/14 Page 34 of 60 PageID 1222  
PACIFIC NORTHWEST TITLE SILVERDALE 201404080171  
Deed Of Trust Rec Fee: \$89.00  
04/08/2014 04:40:46 PM Page 1 of 17  
Walter Washington, Kitsap County Auditor

**Return To:** JPMorgan Chase Bank, NA  
601 Oakmont Lane, Suite 300  
Westmont, IL 60559

**Assessor's Parcel or Account**

**Number:** 4169-000-020-0302

**Abbreviated Legal Description:** Resultant Parcel A of BLA 201106206117,  
PMT Tracts 20 & 20 1/2, Rolling Bay City

**Full legal description located on  
page: 3**

**Trustee:** Olympic Northwest Escrow, Inc

## Deed of Trust

PJNT- 3217-3318

**Definitions.** Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "*Security Instrument*" means this document, which is dated April 4, 2014, together with all Riders to this document.

(B) "*Borrower*" is Peter Yoakum and Julie Yoakum, husband and wife. Borrower is the trustor under this Security Instrument. \*F. \*Rodway

(C) "*Lender*" is JPMorgan Chase Bank, N.A.. Lender is a national banking association organized and existing under the laws of United States of America. Lender's address is 601 Oakmont Lane, Suite 300, Westmont, IL 60559. Lender is the beneficiary under this Security Instrument.

(D) "*Trustee*" is Olympic Northwest Escrow, Inc.

(E) "*Note*" means the promissory note signed by Borrower and dated April 4, 2014. The Note states that Borrower owes Lender one million fifty thousand and 00/100 Dollars (U.S. \$1,050,000.00) plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than May 1, 2044.

(F) "*Property*" means the property that is described below under the heading "Transfer of Rights in the Property."

1100288220  
WASHINGTON-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
VMP®  
Wolters Kluwer Financial Services

J.P. Morgan  
201404014.1.0.2547-N20131226Y

106302209  
FORM 3048 1/01  
09/13  
Page 1 of 16  
Initials: [Signature]

APPX136



(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.

(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Adjustable Rate Rider | <input type="checkbox"/> Condominium Rider              | <input type="checkbox"/> Second Home Rider  |
| <input type="checkbox"/> Balloon Rider         | <input type="checkbox"/> Planned Unit Development Rider | <input type="checkbox"/> 1-4 Family Rider   |
| <input type="checkbox"/> VA Rider              | <input type="checkbox"/> Biweekly Payment Rider         | <input type="checkbox"/> Other(s) [specify] |

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

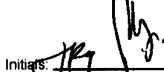
(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. Section 2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, RESPA refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

**Transfer of Rights in the Property.** This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose,

1100288220  
WASHINGTON-Single Family-Fannie Mae/Freddie Mac UNIFORM INSTRUMENT  
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J.P. Morgan  
201404014.1.0.2547-N20131226Y

106302209  
FORM 3048 1/01  
09/13  
Page 2 of 16  
Initialed: 

Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County [Type of Recording Jurisdiction] of Kitsap [Name of Recording Jurisdiction] See Attached Exhibit A

Parcel ID Number: 4169-000-020-0302 which currently has the address of 8986 FERNCLIFF AVE NE [Street] BAINBRIDGE ISLAND [City], Washington 98110-2941 [Zip Code] ("Property Address"):

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seised of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

**Uniform Covenants.** Borrower and Lender covenant and agree as follows:

**1. Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.**

Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.

Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest

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due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal

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Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the

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payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

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**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.

**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

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Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

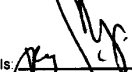
Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

**(A) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the**

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amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.

(B) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes

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Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

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If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address, then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security

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Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time

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period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).


Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

**Non-Uniform Covenants.** Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property at public auction at a date not less than 120 days in the future. The notice shall further inform Borrower of the right to reinstate after acceleration, the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale, and any other matters required to be included in the notice by Applicable Law. If the default is not cured on or before the date specified in the notice, Lender at its option,

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may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and/or any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall give written notice to Trustee of the occurrence of an event of default and of Lender's election to cause the Property to be sold. Trustee and Lender shall take such action regarding notice of sale and shall give such notices to Borrower and to other persons as Applicable Law may require. After the time required by Applicable Law and after publication of the notice of sale, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of the Property for a period or periods permitted by Applicable Law by public announcement at the time and place fixed in the notice of sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it or to the clerk of the superior court of the county in which the sale took place.

**23. Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs and the Trustee's fee for preparing the reconveyance.

**24. Substitute Trustee.** In accordance with Applicable Law, Lender may from time to time appoint a successor trustee to any Trustee appointed hereunder who has ceased to act. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

**25. Use of Property.** The Property is not used principally for agricultural purposes.

**26. Attorneys' Fees.** Lender shall be entitled to recover its reasonable attorneys' fees and costs in any action or proceeding to construe or enforce any term of this Security Instrument. The term "attorneys' fees," whenever used in this Security Instrument, shall include without limitation attorneys' fees incurred by Lender in any bankruptcy proceeding or on appeal.

**ORAL AGREEMENTS OR ORAL COMMITMENTS TO LOAN MONEY, EXTEND CREDIT, OR TO FORBEAR FROM ENFORCING REPAYMENT OF A DEBT ARE NOT ENFORCEABLE UNDER WASHINGTON LAW.**


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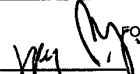
BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

**Borrower**

 4/4/14  
\_\_\_\_\_  
**PETER YOAKUM** **Date**  
**Seal**

 4/4/14  
\_\_\_\_\_  
**JULIE YOAKUM** **Date**  
**Seal**

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**Acknowledgment**

**State of Washington**

**County of Kitsap**

I certify that I know or have satisfactory evidence that

Peter Yoakum and Julie Yoakum

is/are the person(s) who appeared before me, and said person(s) acknowledged that he/she/they signed this instrument and acknowledged it to be his/her/their free and voluntary act for the uses and purposes mentioned in the instrument.

Dated:

4. 14. 14

Martha J Lyda

Notary Public in and for the state of Washington

residing at Kingston

My appointment expires: 02/26/18

(Seal)



**Loan Origination Organization:**

JPMorgan Chase Bank, N.A.

NMLS ID: 399798

**Loan Originator:** Kristen Nonbello

NMLS ID: 530270

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Initials Jay [Signature]

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**Exhibit "A"**

Order No.: 32143318

**Parcel I:**

**Resultant Parcel A of Boundary Line Adjustment recorded under Auditor's File No. 201106200114 being the South half of Tracts 20 and 20 1/2, Rolling Bay City, according to Plat recorded in Volume 3 of Plats, Page 11, in Kitsap County, Washington.**

**Parcel II:**

**An easement for ingress and egress over the North 18 feet of Tract 21 of said plat.**

...End of Exhibit "A"...



# **Exhibit CC**



6/5/2014

# **Exhibit DD**

# Contact Report

## Scott Lewis

Report Expiration  
December 03, 2014

Name Scott Lewis  
Age 46  
Date of Birth 6/20/1967  
Phone Number 925-648-4002  
Additional Phone Number  
Most Recent Address 47 W Village Cir, Midway, UT 84049-6908  
Aliases/Name Variations Scott Matthew Lewis, Scott K Lewis, Scott M Lewis

### Email:

s\*\*\*\*@ixxx.cxx

**Scott Lewis**  
24 Diamond Dr  
Danville, CA 94526

s\*\*\*\*@pictureworks.com

**Scott Lewis**  
24 Diamond Dr  
Danville, CA 94526-2425

s\*\*\*@ipix.com

**Scott Lewis**  
314 Squirrel Ridge Way  
Danville, CA 94506-4744

s\*\*\*\*@hotmail.com

**Scott Lewis**  
723 N 500 W  
American Fork, UT 84003-1197

### 8 addresses were found

Address City, State, Zip  
Phone  
Added  
Updated

47 W Village Cir Midway, UT 84049-6908

9/2013

9/2013

24 Diamond Dr Danville, CA 94526-2425

925-648-4002

2004

7/2004

---

314 Squirrel Ridge Way Danville, CA 94506-4744  
925-648-4002

10/1999

---

665 N 600 W, Apt 12 Provo, UT 84601-1563  
925-648-4002  
5/1994  
5/1994

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982 W 600 S Provo, UT 84601-4108  
  
2/1989  
2/1989

---

120 Shoreline Cir, Apt 341 San Ramon, CA 94582-5083  
925-648-4002  
  
2/1989

---

665 N 600 W, Apt 71 Provo, UT 84601-1563

---

723 N 500 W American Fork, UT 84003-1197

---

## Possible Relatives

Possible relatives are people who are likely relatives of Scott Lewis based on matching surname and shared addresses. Please note that this will not include all relatives.

4 possible relatives were found

Name

Alan B Lewis

Alice Ann Lewis

Krista E Lewis

Jennifer A Long

# **Exhibit EE**



## Navigating Private Equity With Confidence

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Gordie has experience both as an investment banker and as a senior financial executive for public and private technology companies. Prior to joining Swiftsure in 2006, he served as head of investment banking and then COO of Delafield Hambrecht, Inc., a Seattle-based full service investment bank.

Gordie has served as CFO of technology companies in communications software, IT services and consumer internet services. At the start of his career, he worked for 15 years with J.P. Morgan & Co. and its affiliate Morgan Guaranty Trust Company, in New York, San Francisco and Milan. His experience during this time included a broad variety of corporate finance transactions ranging from public equity and debt offerings to cross border mergers & acquisitions advisory assignments.

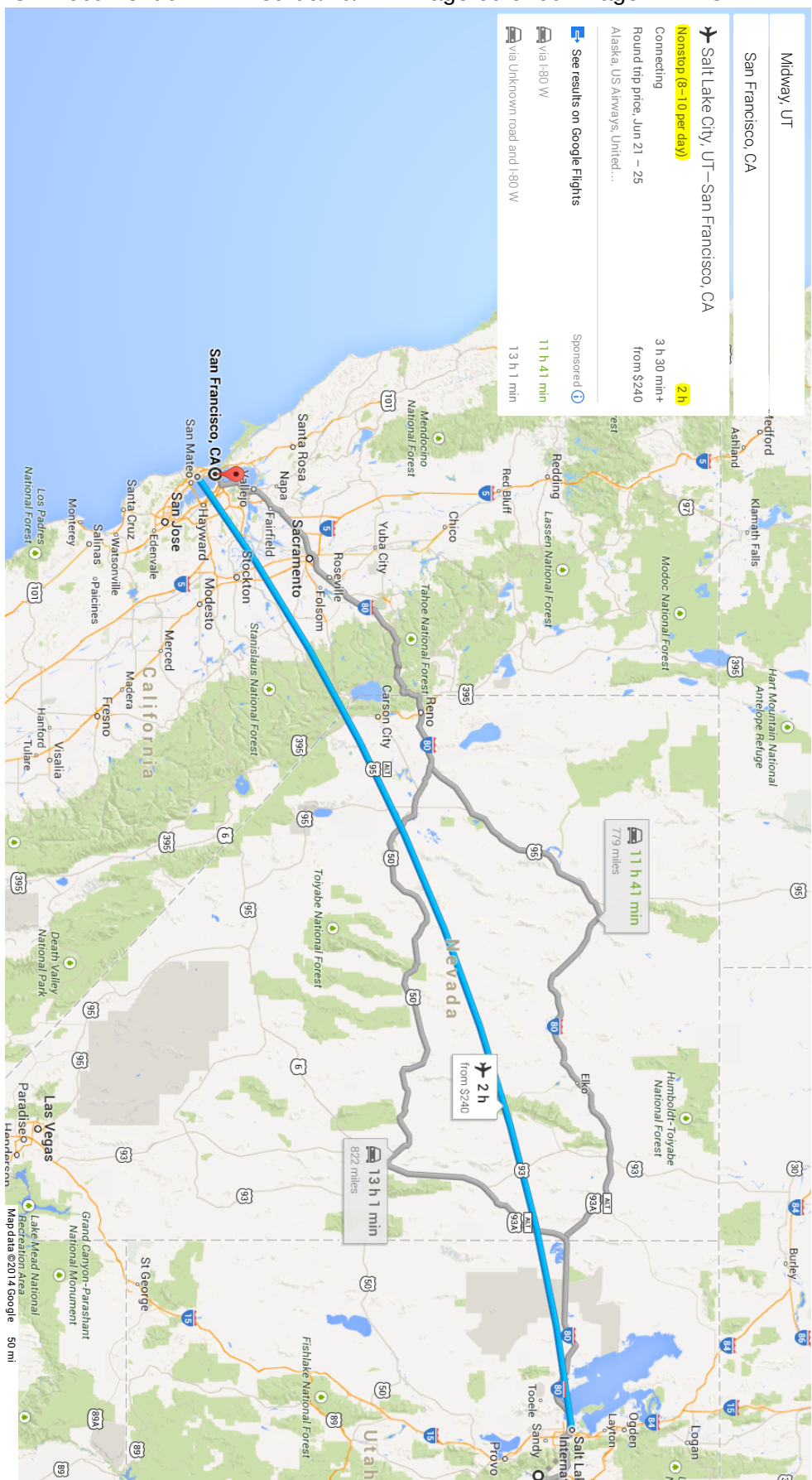
Gordie is the former Chairman of Geospiza and currently serves as a director of Concordia Coffee Company, General Biodiesel Seattle and Discovery Bay Games. He is also a member of the Advisory Council of the Seattle International Rescue Committee, an international refugee relief and resettlement organization.

Gordie earned a BA in Biology from Harvard where he was also captain of the heavyweight crew. Later he completed the Executive Program for Growing Companies at Stanford University Graduate School of Business. He is an avid skier and road biker. Gordie and his wife Nina have two children in college and one in high school.

Securities offered through Swiftsure Securities, LLC, member **FINRA** and **SIPC**. View our **Privacy Policy** and



# **Exhibit FF**



# **Exhibit GG**

Drive 1,086 miles, 16 h 38 min



Follow UT-113S to US-189S in Charleston

4.0 mi / 6 min

1. Head east on W Main St toward S Center St

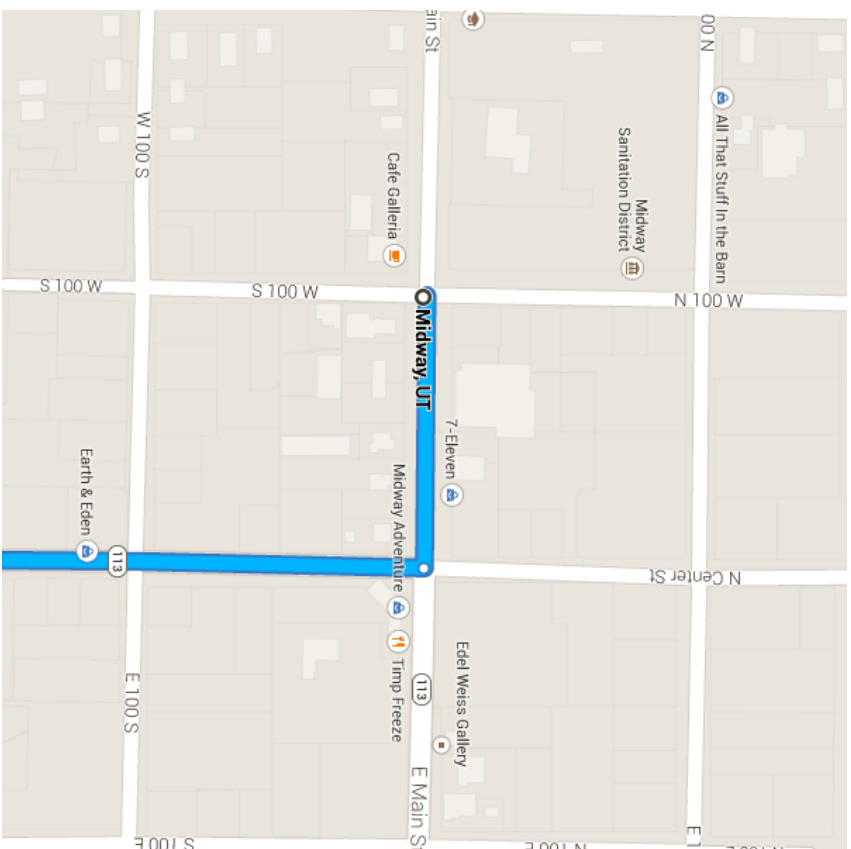
- Take the 1st right onto UT-113 S/S Center St
- i** Continue to follow UT-113 S

3.9 mi

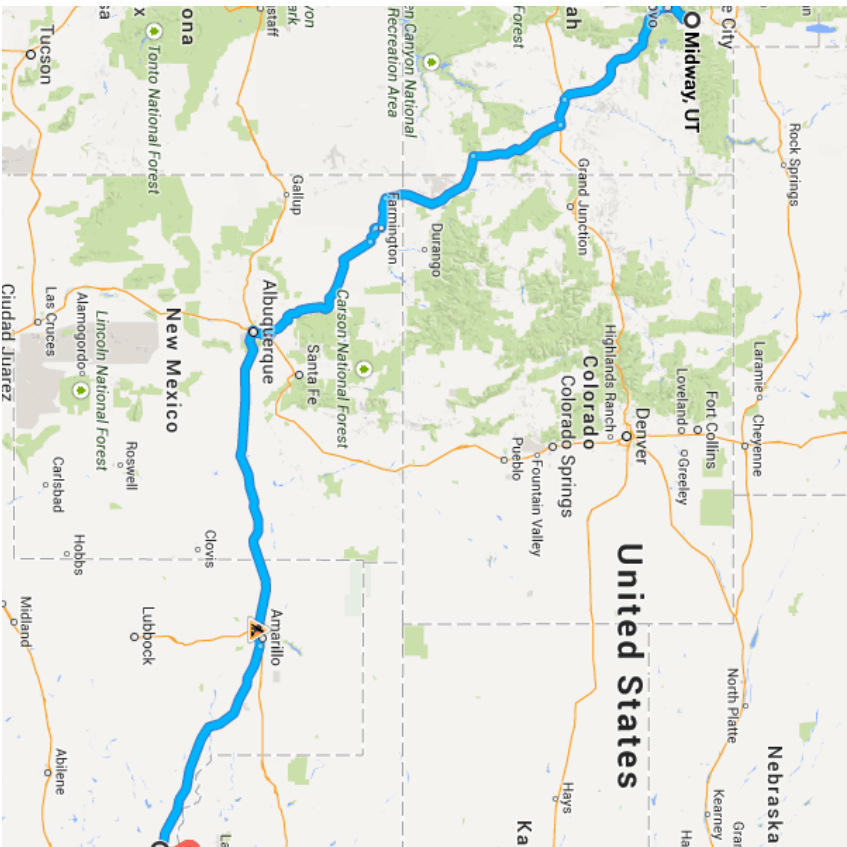
Take US-6 E, US-191 S, US-491 S, US-550 S, ... and US-287 S to **Central E Fwy** in Wichita Falls. Take exit **1D** from I-44/US-287 S

1,080 mi / 16 h 28 min

3. Turn **right** onto **US-189 S** 24.5 mi
4. Merge onto **I-15 S** via the ramp to **Las Vegas** 5.5 mi



5. Take exit 257 B-A for US 6 E toward Utah 156/Spanish Fork/Price/Main St  
0.3 mi
6. Take exit 257 B on the left to merge onto US-6 E toward Price  
127 mi
7. Take the ramp onto I-70 E  
23.6 mi
8. Take exit 182 for US-191 S toward Crescent Jct/Moab  
0.3 mi
9. Turn right onto US-191 S  
85.3 mi
10. Turn left onto US-491 S/E Center St  
Continue to follow US-491 S  
Passing through Colorado  
Entering New Mexico  
102 mi
11. Turn left onto US-64 E  
26.5 mi
12. Turn right onto US-64 BYP E/W Murray Dr  
0.9 mi
13. Turn right onto NM-371 S  
5.5 mi
14. Turn left onto Co Rd 7100  
1.7 mi
15. Turn left onto Co Rd 7010  
12.9 mi
16. Turn right onto US-550 S  
143 mi
17. Take the ramp onto I-25 S  
15.8 mi
18. Take exit 226A-226B for I-40 E/I-40 W toward Santa Rosa/Gallup  
0.2 mi



19. Take exit **226A** on the **left** to merge onto **I-40 E** toward **Santa**

**i** Entering Texas

20. Take exit **78** to merge onto **US-287 S** toward **Fort Worth**

21. Take the I-44 W/US-287 S exit toward **Wichita Falls/Ft Worth**

22. Merge onto I-44/US-287 S

23. Take exit 1D toward US-287 BUS

Drive to N Scott Ave

2.0 mi / 4 min

24. Merge onto Central E Fwy

0.2 mi

25. Turn left onto Old Iowa Park Rd

0.4 mi

26. Continue onto N Scott Ave

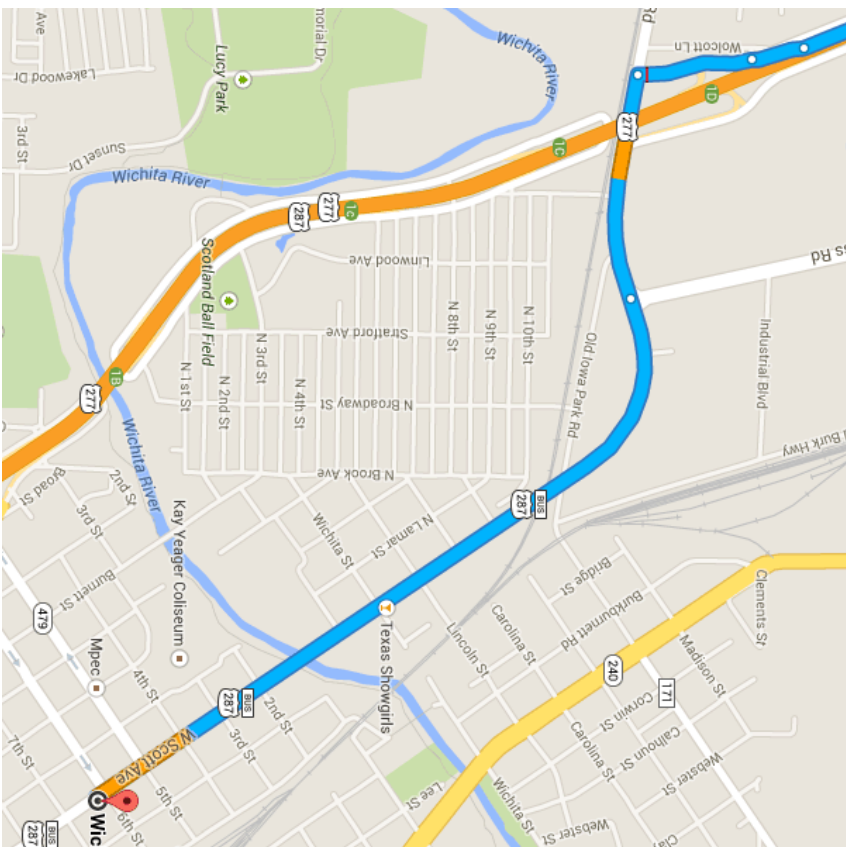
1.4 mi



Wichita Falls, TX

These directions are for planning purposes only. You may find that construction projects, traffic, weather, or other events may cause conditions to differ from the map results, and you should plan your route accordingly. You must obey all signs or notices regarding your route.

Map data ©2014 Google, INEGI





# **Exhibit HH**



United States Patent and Trademark Office

Commissioner for Patents

United States Patent and Trademark Office

P.O. Box 1450

Alexandria, VA 22313-1450

www.uspto.gov

**Inter Parte Reexamination Filing Data - September 30, 2013**

1. Total requests filed since start of <i>Inter Parte</i> reexam on 11/29/99.....	1919
2. Number of Filings by discipline	
a. Chemical Operation	286 15%
b. Electrical Operation	865 45%
c. Mechanical Operation	489 25%
d. Design Patents	19 1%
3. Annual <i>Inter Parte</i> Reexam Filings	
Fiscal Yr.    No    Fiscal Yr.    No    Fiscal Yr.    No    Fiscal Yr.    No	
2000      0      2004      27      2008      168      2012      530	
2001      1      2005      59      2009      258      2013      NA	
2002      4      2006      70      2010      281	
2003      21      2007      126      2011      374	
4. Number known to be in litigation.....	1449 76%
5. Decisions on requests.....	2005
a. No. granted	1872 93%
(1) By examiner	1863
(2) By Director (on petition)	9
b. No. denied	133 7%
(1) By examiner	127
(2) Reexam vacated	6
6. Overall reexamination pendency (Filing date to certificate issue date)	
a. Average pendency	36 (mos.)
b. Median pendency	31.8 (mos.)
7. Total ex parte reexamination certificates issued (1999 – present) .....	696
a. <b>Certificates with all claims confirmed</b>	<b>53 8%</b>
b. Certificates with all claims canceled (or disclaimed)	219 31%
c. Certificates with claims changes	424 61%

1 Total decisions on requests does not include requests that have been vacated or are pending.  
updated as of 11/22/13

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## United States Patent and Trademark Office

Commissioner for Patents  
 United States Patent and Trademark Office  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
 www.uspto.gov

*Inter Partes* Reexamination Filing Data - September 30, 2012

1. Total requests filed since start of <i>inter partes</i> reexam on 11/29/99.....	1919
2. Number of Filings by dicipline	
a. Chemical Operation	350 18%
b. Electrical Operation	985 51%
c. Mechanical Operation	564 29%
d. Design Patents	20 1%
3. Annual <i>Inter Partes</i> Reexam Filings	
Fiscal Yr.    No      Fiscal Yr.    No      Fiscal Yr.    No      Fiscal Yr.    No	
2000      0        2004      27        2008      168      2012      530	
2001      1        2005      59        2009      258	
2002      4        2006      70        2010      281	
2003      21       2007      126       2011      374	
4. Number known to be in litigation.....	1272 66%
5. Decisions on requests.....	1789
a. No. granted.....	1682 94%
(1) By examiner	1673
(2) By Director (on petition)	9
b. No. denied.....	107 6%
(1) By examiner	101
(2) Reexam vacated	6
6. Overall reexamination pendency (Filing date to certificate issue date)	
a. Average pendency	39.5 (mos.)
b. Median pendency	34.1 (mos.)
7. Total <i>Inter partes</i> reexamination certificates issued (1999 – present) .....	373
a. Certificates with all claims confirmed	44 12%
b. Certificates with all claims canceled (or disclaimed)	169 45%
c. Certificates with claims changes	160 43%



## UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
 United States Patent and Trademark Office  
 P.O. Box 1450  
 Alexandria, VA 22313-1450  
 www.uspto.gov

Inter Partes Reexamination Filing Data – September 30, 2011

1. Total requests filed since start of *inter partes* reexam on 11/29/99..... 1389<sup>1</sup>
2. Number of filings by discipline
  - a. Chemical Operation 250 18%
  - b. Electrical Operation 722 52%
  - c. Mechanical Operation 401 29%
  - d. Design Patents 16 1%
3. Annual Reexam Filings
 

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
2000	0	2003	21	2006	70	2009	258
2001	1	2004	27	2007	126	2010	281
2002	4	2005	59	2008	168	2011	374
4. Number known to be in litigation.....974.....70%
5. Decisions on requests ..... 1246
  - a. No. granted ..... 1187 .....95%
    - (1) By examiner 1178
    - (2) By Director (on petition) 9
  - b. No. not granted ..... 59 .....5%
    - (1) By examiner 54
    - (2) Reexam vacated 5
6. Overall reexamination pendency (Filing date to certificate issue date)
  - a. Average pendency 36.2 (mos.)
  - b. Median pendency 32.9 (mos.)
7. Total *inter partes* reexamination certificates issued (1999 - present) ..... 305
  - a. Certificates with all claims confirmed 35 11%
  - b. Certificates with all claims canceled (or disclaimed) 133 44%
  - c. Certificates with claims changes 137 45%

<sup>1</sup>Of the requests received in FY 2011, 3 requests have not yet been accorded a filing date, and 5 requests have had preprocessing terminated, for failure to comply with the requirements of 37 CFR 1.915. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).



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Inter Partes Reexamination Filing Data – September 30, 2010

1. Total requests filed since start of *inter partes* reexam on 11/29/99.....1015<sup>1</sup>
2. Number of filings by discipline
 

a. Chemical Operation	193	19%
b. Electrical Operation	506	50%
c. Mechanical Operation	304	30%
d. Design Patents	12	1%
3. Annual Reexam Filings
 

<u>Fiscal Yr.</u>	<u>No.</u>	<u>Fiscal Yr.</u>	<u>No.</u>	<u>Fiscal Yr.</u>	<u>No.</u>	<u>Fiscal Yr.</u>	<u>No.</u>
2000	0	2003	21	2006	70	2009	258
2001	1	2004	27	2007	126	2010	281
2002	4	2005	59	2008	168		
4. Number known to be in litigation.....694.....68%
5. Decisions on requests ..... 881
  - a. No. granted ..... 843.....96%
    - (1) By examiner 841
    - (2) By Director (on petition) 2
  - b. No. not granted ..... 38.....4%
    - (1) By examiner 34
    - (2) Reexam vacated 4
6. Overall reexamination pendency (Filing date to certificate issue date)
  - a. Average pendency 36.1 (mos.)
  - b. Median pendency 31.4 (mos.)
7. Total *inter partes* reexamination certificates issued (1999 - present) ..... 192
  - a. Certificates with all claims confirmed 20 11%
  - b. Certificates with all claims canceled (or disclaimed) 91 47%
  - c. Certificates with claims changes 81 42%

<sup>1</sup>Of the requests received in FY 2010, 4 requests have not yet been accorded a filing date, and 24 requests have had preprocessing terminated, for failure to comply with the requirements of 37 CFR 1.915. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).



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Inter Partes Reexamination Filing Data - September 30, 2009

1. Total requests filed since start of *inter partes* reexam on 11/29/99.....734<sup>1</sup>
2. Number of filings by discipline
 

a. Chemical Operation	148	20%
b. Electrical Operation	332	45%
c. Mechanical Operation	243	33%
d. Design Patents	11	2%
3. Annual Reexam Filings
 

<u>Fiscal Yr.</u>	<u>No.</u>	<u>Fiscal Yr.</u>	<u>No.</u>	<u>Fiscal Yr.</u>	<u>No.</u>	<u>Fiscal Yr.</u>	<u>No.</u>
2000	0	2003	21	2006	70	2009	258
2001	1	2004	27	2007	126		
2002	4	2005	59	2008	168		
4. Number known to be in litigation.....498.....68%
5. Decisions on requests ..... 650
  - a. No. granted ..... 619.....95%
    - (1) By examiner 618
    - (2) By Director (on petition) 1
  - b. No. not granted ..... 31.....5%
    - (1) By examiner 27
    - (2) Reexam vacated 4
6. Overall reexamination pendency (Filing date to certificate issue date)
  - a. Average pendency 35.8 (mos.)
  - b. Median pendency 32.4 (mos.)
7. Total *inter partes* reexamination certificates issued (1999 - present) ..... 105
  - a. Certificates with all claims confirmed 6 6%
  - b. Certificates with all claims canceled (or disclaimed) 57 54%
  - c. Certificates with claims changes 42 40%

<sup>1</sup>Of the requests received in FY 2009, 4 requests have not yet been accorded a filing date, and 15 requests have had preprocessing terminated, for failure to comply with the requirements of 37 CFR 1.915. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).



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Inter Partes Reexamination Filing Data - September 30, 2008

1. Total requests filed since start of *inter partes* reexam on 11/29/99.....476<sup>1</sup>
2. Number of filings by discipline
 

a. Chemical Operation	113	24%
b. Electrical Operation	179	38%
c. Mechanical Operation	173	36%
d. Design Patents	11	2%
3. Annual Reexam Filings
 

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
2000	0	2003	21	2006	70
2001	1	2004	27	2007	126
2002	4	2005	59	2008	168
4. Number known to be in litigation.....278.....58%
5. Decisions on requests ..... 420
  - a. No. granted ..... 401 .....95%
    - (1) By examiner 401
    - (2) By Director (on petition) 0
  - b. No. not granted ..... 19 .....5%
    - (1) By examiner 16
    - (2) Reexam vacated 3
6. Overall reexamination pendency (Filing date to certificate issue date)
  - a. Average pendency 32.6 (mos.)
  - b. Median pendency 30.8 (mos.)
7. Total *inter partes* reexamination certificates issued (1999 - present) ..... 33
  - a. Certificates with all claims confirmed 4 12%
  - b. Certificates with all claims canceled (or disclaimed) 22 67%
  - c. Certificates with claims changes 7 21%

<sup>1</sup>Of the requests received in FY 2008, 7 requests have not yet been accorded a filing date, and 7 requests had preprocessing terminated, for failure to comply with the requirements of 37 CFR 1.915. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

# **Exhibit II**





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**Ex Parte Reexamination Filing Data - September 30, 2013**

1. Total requests filed since start of <i>Ex Parte</i> reexam on 07/01/81.....		12874
a. By patent owner	3833	30%
b. by other member of the public	8874	69%
c. By order of Commissioner	167	1%
2. Number of Filings by dicipline		
a. Chemical Operation	3435	27%
b. Electrical Operation	5001	39%
c. Mechanical Operation	4234	33%
d. Design Patents	204	2%
3. Annual <i>Ex Parte</i> Reexam Filings		
Fiscal Yr. No	Fiscal Yr. No	Fiscal Yr. No
1981 78 (3 mos.	1989 243	1997 376
1982 187	1990 297	1998 350
1983 186	1991 307	1999 385
1984 189	1992 392	2000 318
1985 230	1993 359	2001 296
1986 232	1994 379	2002 272
1987 240	1995 392	2003 392
1988 268	1996 418	2004 441
2005 524	2006 511	2007 643
2008 680	2009 658	2010 780
2011 759	2012 787	2013 305
4. Number known to be in litigation.....	4167	32%
5. Decisions on requests.....		12016
a. No. granted	11013	92%
(1) By examiner	10891	
(2) By Director (on petition)	122	
b. No. denied	1003	8%
(1) By examiner	968	
(2) Reexam vacated	35	
6. Total examiner denials (includes denials reversed by Director).....		1067
a. Patent owner requester	498	47%
b. Third party requester	606	57%
7. Overall reexamination pendency (Filing date to certificate issue date)		
a. Average pendency	27.8 (mos.)	
b. Median pendency	20.1 (mos.)	

1 Total decisions on requests does not include requests that have been vacated or are pending.

updated as of 11/22/13

1/2

APPX177

8. Reexam certificate claim analysis:	Owner Requeste	3rd Party Requeste	Comm'r Initiate	Overall
a. All claims confirmed	6%	15%	0%	21%
b. All calims canceled	3%	8%	0%	11%
c. Claims changed	21%	40%	1%	62%
9. Total ex parte reexamination certificates issued (1981 – present) .....				9991
a. Certificates with all claims confirmed			2241	22%
b. Certificates with all claims canceled			1205	12%
c. Certificates with claims changes			6545	66%
10. Reexam claim analysis – requester is patent owner or 3rd party or Commissioner initiated.				
a. Certificates – PATENT OWNER REQUESTER				3279
a. All claims confirmed			682	21%
b. All calims canceled			283	9%
c. Claims changed			2239	68%
b. Certificates – 3rd PARTY REQUESTER				7174
a. All claims confirmed			1541	21%
b. All calims canceled			882	12%
c. Claims changed			4201	59%
c. Certificates – COMMISSIONER INITIATED REEXAM				164
a. All claims confirmed			18	11%
b. All calims canceled			40	24%
c. Claims changed			105	64%

1 Total decisions on requests does not include requests that have been vacated or are pending.



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Ex Parte Reexamination Filing Data - September 30, 2012

1. Total requests filed since start of <i>ex parte</i> reexam on 07/01/81.....	12569
a. By patent owner	3872 31%
b. by other member of the public	8532 68%
c. By order of Commissioner	165 1%
2. Number a. Chemical Operation	3373 27%
b. Electrical Operation	4831 38%
c. Mechanical Operation	4178 33%
d. Design Patents	187 1%
3. Annual <i>Ex Parte</i> Reexam Filings	
Fiscal Yr. No Fiscal Yr. No Fiscal Yr. No Fiscal Yr. No	
1981 78 (3 mos.) 1989 243 1997 376 2005 524	
1982 187 1990 297 1998 350 2006 511	
1983 186 1991 307 1999 385 2007 643	
1984 189 1992 392 2000 318 2008 680	
1985 230 1993 359 2001 296 2009 658	
1986 232 1994 379 2002 272 2010 780	
1987 240 1995 392 2003 392 2011 759	
1988 268 1996 418 2004 441 2012 788	
4. Number known to be in litigation.....	3994 32%
5. Decisions on requests.....	11737
a. No. granted.....	10755 92%
(1) By examiner	10762
(2) By Director (on petition)	122
b. No. denied.....	982 8%
(1) By examiner	961
(2) Reexam vacated	35
6. Total examiner denials (includes denials reversed by Director).....	1078
a. Patent owner requester	496 46%
b. Third party requester	582 54%
7. Overall reexamination pendency (Filing date to certificate issue date)	
a. Average pendency	27.9 (mos.)
b. Median pendency	20.5 (mos.)

8. Reexam certificate claim analysis:	Owner Requester	3rd Party Requester	Comm'r Initiate	Overall
a. All claims confirmed	21%	22%	11%	21%
b. All calims canceled	8%	12%	24%	11%
c. Claims changed	71%	66%	65%	68%
9. Total ex parte reexamination certificates issued (1981 – present) .....				9328
a. Certificates with all claims confirmed			2029	22%
b. Certificates with all claims canceled			1063	11%
c. Certificates with claims changes			6236	67%
10. Reexam claim analysis – requester is patent owner or 3rd party or Commissioner initiated.				
a. Certificates – PATENT OWNER REQUESTER				3176
a. All claims confirmed			669	21%
b. All calims canceled			280	9%
c. Claims changed			2227	70%
b. Certificates – 3rd PARTY REQUESTER				6026
a. All claims confirmed			1348	22%
b. All calims canceled			745	12%
c. Claims changed			3933	65%
c. Certificates – COMMISSIONER INITIATED REEXAM				164
a. All claims confirmed			18	11%
b. All calims canceled			38	23%
c. Claims changed			108	66%



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Ex Parte Reexamination Filing Data - September 30, 2011

1. Total requests filed since start of *ex parte* reexam on 07/01/81.....11782<sup>1</sup>

a. By patent owner	3801	33%
b. By other member of public	7815	66%
c. By order of Commissioner	166	1%

2. Number of filings by discipline

a. Chemical Operation	3211	27%
b. Electrical Operation	4405	37%
c. Mechanical Operation	3987	34%
d. Design Patents	179	2%

3. Annual *Ex Parte* Reexam Filings

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	524
1982	187	1990	297	1998	350	2006	511
1983	186	1991	307	1999	385	2007	643
1984	189	1992	392	2000	318	2008	680
1985	230	1993	359	2001	296	2009	658
1986	232	1994	379	2002	272	2010	780
1987	240	1995	392	2003	392	2011	759
1988	268	1996	418	2004	441		

4. Number known to be in litigation.....3894.....33%

5. Decisions on requests.....11262

a. No. granted.....10333.....92%

(1) By examiner	10213
(2) By Director (on petition)	120

b. No. denied .....929.....8%

(1) By examiner	894
(2) Reexam vacated	35

<sup>1</sup>Of the requests received in FY 2011, 22 requests have not yet been accorded a filing date, and preprocessing of 35 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6.	Total examiner denials (includes denials reversed by Director).....	1014		
a.	Patent owner requester	476	47%	
b.	Third party requester	538	53%	
7.	Overall reexamination pendency (Filing date to certificate issue date)			
a.	Average pendency	25.6 (mos.)		
b.	Median pendency	19.9 (mos.)		
8.	Reexam certificate claim analysis:			
		<u>Owner</u>	<u>3<sup>rd</sup> Party</u>	<u>Comm'r</u>
		<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>
				<u>Overall</u>
a.	All claims confirmed	21%	24%	11%
b.	All claims cancelled	9%	12%	23%
c.	Claims changes	70%	64%	66%
9.	Total <i>ex parte</i> reexamination certificates issued (1981 – present) .....			8578
a.	Certificates with all claims confirmed		1943	23%
b.	Certificates with all claims canceled		974	11%
c.	Certificates with claims changes		5661	66%
10.	Reexam claim analysis – requester is patent owner or 3 <sup>rd</sup> party or Commissioner initiated.			
a.	Certificates – PATENT OWNER REQUESTER .....			3040
	(1) All claims confirmed		651	21%
	(2) All claims canceled		264	9%
	(3) Claim changes		2125	70%
b.	Certificates – 3 <sup>rd</sup> PARTY REQUESTER .....			5380
	(1) All claims confirmed		1274	24%
	(2) All claims canceled		674	12%
	(3) Claim changes		3432	64%
c.	Certificates – COMMISSIONER INITIATED REEXAM .....			158
	(1) All claims confirmed		18	11%
	(2) All claims canceled		36	23%
	(3) Claim changes		104	66%



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Ex Parte Reexamination Filing Data - September 30, 2010

1. Total requests filed since start of *ex parte* reexam on 07/01/81..... 11023<sup>1</sup>
  - a. By patent owner 3697 34%
  - b. By other member of public 7161 65%
  - c. By order of Commissioner 165 1%
  
2. Number of filings by discipline
  - a. Chemical Operation 3068 28%
  - b. Electrical Operation 4010 36%
  - c. Mechanical Operation 3771 34%
  - d. Design Patents 174 2%
  
3. Annual *Ex Parte* Reexam Filings
 

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	524
1982	187	1990	297	1998	350	2006	511
1983	186	1991	307	1999	385	2007	643
1984	189	1992	392	2000	318	2008	680
1985	230	1993	359	2001	296	2009	658
1986	232	1994	379	2002	272	2010	780
1987	240	1995	392	2003	392		
1988	268	1996	418	2004	441		
  
4. Number known to be in litigation..... 3568.....32%
  
5. Decisions on requests.....10495
  - a. No. granted.....9648.....92%
    - (1) By examiner 9534
    - (2) By Director (on petition) 114
  - b. No. denied .....847.....8%
    - (1) By examiner 812
    - (2) Reexam vacated 35

<sup>1</sup>Of the requests received in FY 2010, 16 requests have not yet been accorded a filing date, and preprocessing of 80 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6.	Total examiner denials (includes denials reversed by Director).....	926		
a.	Patent owner requester	451	49%	
b.	Third party requester	475	51%	
7.	Overall reexamination pendency (Filing date to certificate issue date)			
a.	Average pendency	25.5 (mos.)		
b.	Median pendency	20.0 (mos.)		
8.	Reexam certificate claim analysis:			
		<u>Owner</u>	<u>3<sup>rd</sup> Party</u>	<u>Comm'r</u>
		<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>
				<u>Overall</u>
a.	All claims confirmed	22%	25%	12%
b.	All claims cancelled	8%	13%	23%
c.	Claims changes	70%	62%	65%
9.	Total <i>ex parte</i> reexamination certificates issued (1981 – present) .....			7782
a.	Certificates with all claims confirmed		1817	23%
b.	Certificates with all claims canceled		893	12%
c.	Certificates with claims changes		5072	65%
10.	Reexam claim analysis – requester is patent owner or 3 <sup>rd</sup> party or Commissioner initiated.			
a.	Certificates – PATENT OWNER REQUESTER .....			2947
	(1) All claims confirmed		638	22%
	(2) All claims canceled		251	8%
	(3) Claim changes		2058	70%
b.	Certificates – 3 <sup>rd</sup> PARTY REQUESTER .....			4681
	(1) All claims confirmed		1161	25%
	(2) All claims canceled		607	13%
	(3) Claim changes		2913	62%
c.	Certificates – COMMISSIONER INITIATED REEXAM .....			154
	(1) All claims confirmed		18	12%
	(2) All claims canceled		35	23%
	(3) Claim changes		101	65%





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Ex Parte Reexamination Filing Data - September 30, 2009

1. Total requests filed since start of *ex parte* reexam on 07/01/81..... 10243<sup>1</sup>
  - a. By patent owner 3634 35%
  - b. By other member of public 6444 63%
  - c. By order of Commissioner 165 2%
  
2. Number of filings by discipline
  - a. Chemical Operation 2931 29%
  - b. Electrical Operation 3596 35%
  - c. Mechanical Operation 3554 34%
  - d. Design Patents 162 2%
  
3. Annual *Ex Parte* Reexam Filings
 

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	524
1982	187	1990	297	1998	350	2006	511
1983	186	1991	307	1999	385	2007	643
1984	189	1992	392	2000	318	2008	680
1985	230	1993	359	2001	296	2009	658
1986	232	1994	379	2002	272		
1987	240	1995	392	2003	392		
1988	268	1996	418	2004	441		
  
4. Number known to be in litigation..... 3221.....31%
  
5. Decisions on requests.....9833
  - a. No. granted.....9041.....92%
    - (1) By examiner 8928
    - (2) By Director (on petition) 113
  - b. No. denied .....792.....8%
    - (1) By examiner 757
    - (2) Reexam vacated 35

<sup>1</sup>Of the requests received in FY 2009, 22 requests have not yet been accorded a filing date, and preprocessing of 41 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6.	Total examiner denials (includes denials reversed by Director).....	870		
a.	Patent owner requester	445	51%	
b.	Third party requester	425	49%	
7.	Overall reexamination pendency (Filing date to certificate issue date)			
a.	Average pendency	25.2 (mos.)		
b.	Median pendency	19.7 (mos.)		
8.	Reexam certificate claim analysis:			
		<u>Owner</u>	<u>3<sup>rd</sup> Party</u>	<u>Comm'r</u>
		<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>
				<u>Overall</u>
a.	All claims confirmed	22%	26%	12%
b.	All claims cancelled	8%	13%	23%
c.	Claims changes	70%	61%	65%
9.	Total <i>ex parte</i> reexamination certificates issued (1981 – present) .....			7089
a.	Certificates with all claims confirmed		1725	25%
b.	Certificates with all claims canceled		807	11%
c.	Certificates with claims changes		4557	64%
10.	Reexam claim analysis – requester is patent owner or 3 <sup>rd</sup> party or Commissioner initiated.			
a.	Certificates – PATENT OWNER REQUESTER .....			2827
	(1) All claims confirmed		625	22%
	(2) All claims canceled		233	8%
	(3) Claim changes		1969	70%
b.	Certificates – 3 <sup>rd</sup> PARTY REQUESTER .....			4111
	(1) All claims confirmed		1082	26%
	(2) All claims canceled		540	13%
	(3) Claim changes		2489	61%
c.	Certificates – COMMISSIONER INITIATED REEXAM .....			151
	(1) All claims confirmed		18	12%
	(2) All claims canceled		34	23%
	(3) Claim changes		99	65%



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Ex Parte Reexamination Filing Data - September 30, 2008

1. Total requests filed since start of *ex partes* reexam on 07/01/81 ..... 9585<sup>1</sup>
  - a. By patent owner 3567 37%
  - b. By other member of public 5853 61%
  - c. By order of Commissioner 165 2%
  
2. Number of filings by discipline
  - a. Chemical Operation 2811 29%
  - b. Electrical Operation 3261 34%
  - c. Mechanical Operation 3357 35%
  - d. Design Patents 156 2%
  
3. Annual Ex Parte Reexam Filings
 

Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.	Fiscal Yr.	No.
1981	78 (3 mos.)	1989	243	1997	376	2005	524
1982	187	1990	297	1998	350	2006	511
1983	186	1991	307	1999	385	2007	643
1984	189	1992	392	2000	318	2008	680
1985	230	1993	359	2001	296		
1986	232	1994	379	2002	272		
1987	240	1995	392	2003	392		
1988	268	1996	418	2004	441		
  
4. Number known to be in litigation..... 2849.....30%
  
5. Decisions on requests.....9219
  - a. No. granted.....8467.....92%
    - (1) By examiner 8354
    - (2) By Director (on petition) 113
  - b. No. denied .....752.....8%
    - (1) By examiner 717
    - (2) Reexam vacated 35

<sup>1</sup>Of the requests received in FY 2008, 7 requests have not yet been accorded a filing date, and preprocessing of 15 requests was terminated for failure to comply with the requirements of 37 CFR 1.510. See Clarification of Filing Date Requirements for *Ex Parte* and *Inter Partes* Reexamination Proceedings, Final Rule, 71 Fed. Reg. 44219 (August 4, 2006).

6. Total examiner denials (includes denials reserved by Director).....				830
a. Patent owner requester		441		53%
b. Third party requester		389		47%
7. Overall reexamination pendency (Filing date to certificate issue date)				
a. Average pendency			24.5 (mos.)	
b. Median pendency			19.0 (mos.)	
8. Reexam certificate claim analysis:	Owner	3 <sup>rd</sup> Party	Comm'r	
	<u>Requester</u>	<u>Requester</u>	<u>Initiated</u>	<u>Overall</u>
a. All claims confirmed	22%	28%	12%	25%
b. All claims cancelled	8%	13%	21%	11%
c. Claims changes	70%	59%	67%	64%
9. Total ex parte reexamination certificates issued (1981 – present) .....				6457
a. Certificates with all claims confirmed			1624	25%
b. Certificates with all claims canceled			721	11%
c. Certificates with claims changes			4112	64%
10. Reexam claim analysis – requester is patent owner or 3 <sup>rd</sup> party; or Comm'r initiated.				
a. Certificates – PATENT OWNER REQUESTER .....				2722
(1) All claims confirmed			611	22%
(2) All claims canceled			214	8%
(3) Claim changes			1897	70%
b. Certificates – 3 <sup>rd</sup> PARTY REQUESTER .....				3588
(1) All claims confirmed			995	28%
(2) All claims canceled			476	13%
(3) Claim changes			2117	59%
c. Certificates – COMM'R INITIATED REEXAM .....				147
(1) All claims confirmed			18	12%
(2) All claims canceled			31	21%
(3) Claim changes			98	67%

# **Exhibit JJ**

Hotels Flights Vacation Packages Cars Cruises Deals Activities [New!](#) [Welcome](#) [Credit Card](#)

[Change search](#) **San Diego, CA (SAN) to San Francisco, CA (SFO)** **Mon, Jun 9, 2014**

**LOWEST PRICE**  
**\$131.00**

[Hide Matrix](#)

	US Airways	Delta Air Lines	Virgin America	American Airlines	United Airlines	Multiple Airlines	Frontier Airlines	Alaska Airlines
<a href="#">Non-stop</a>			\$203.00		\$237.00			
<a href="#">1+ stops</a>	\$131.00	\$141.00		\$206.00	\$248.00	\$348.00	\$408.00	\$433.00

**Refine Results**

**Select flight times**  
Outbound  
Take-off: 6:00 AM - 6:00 PM  
[Show landing time](#)

**Select stops**  
Any  
Non-stop \$203  
1 stop \$131  
2+ stops \$210

**Select price range**  
Any  
\$131-\$270 (75)  
\$270-\$430 (82)  
\$430-\$550 (75)  
\$550-\$600 (82)  
\$600-\$750 (112)  
\$750-\$850 (91)

**Select airlines**  
Any  
Multiple Airlines \$348  
Alaska Airlines \$433  
American Airlines \$208  
Delta Air Lines \$141  
Frontier Airlines \$408  
United Airlines \$237  
US Airways \$131  
Virgin America \$203

**Matching Results: 527** **Sort by:** [Shortest Flight](#)  
Additional baggage fees may apply.

**Flight 1: \$203.00** **Mon, Jun 9** **Total time: 1hr 25min**  
Total cost: **\$203.00**  
FREE Cancel  
[Select](#)  
Depart 5:00 PM San Diego, CA, United States San Diego Airport (SAN) | Terminal 2  
Arrive 6:25 PM San Francisco, CA, United States San Francisco Airport (SFO) | Terminal 2  
Virgin America 963 Economy Airbus A320 | On-time: 88% 447 mi | 1hr 25min [Seat map](#)  
Earn \$2.03 ORBITZ REWARDS Earn \$20 in bonus Orbucks

**Flight 2: \$203.00** **Mon, Jun 9** **Total time: 1hr 25min**  
Total cost: **\$203.00**  
FREE Cancel  
[Select](#)  
Depart 7:00 AM San Diego, CA, United States San Diego Airport (SAN) | Terminal 2  
Arrive 8:25 AM San Francisco, CA, United States San Francisco Airport (SFO) | Terminal 2  
Virgin America 1961 Economy Airbus A319 | On-time: 91% 447 mi | 1hr 25min [Seat map](#)  
Earn \$2.03 ORBITZ REWARDS Earn \$20 in bonus Orbucks

**Flight 3: \$237.00** **Mon, Jun 9** **Total time: 1hr 26min**  
Total cost: **\$237.00**  
FREE Cancel  
[Select](#)  
Depart 6:28 PM San Diego, CA, United States San Diego Airport (SAN) | Terminal 2  
Arrive 6:54 PM San Francisco, CA, United States San Francisco Airport (SFO) | Terminal 3  
United Airlines 1736 Economy Boeing 737 447 mi | 1hr 26min [Seat map](#)  
Earn \$2.37 ORBITZ REWARDS Earn \$20 in bonus Orbucks

**Flight 4: \$203.00** **Mon, Jun 9** **Total time: 1hr 30min**  
Total cost: **\$203.00**  
FREE Cancel  
[Select](#)  
Depart 7:50 PM San Diego, CA, United States San Diego Airport (SAN) | Terminal 2  
Arrive 9:20 PM San Francisco, CA, United States San Francisco Airport (SFO) | Terminal 2  
Virgin America 989 Economy Airbus A319 | On-time: 85% 447 mi | 1hr 30min [Seat map](#)  
Earn \$2.03 ORBITZ REWARDS Earn \$20 in bonus Orbucks

**Flight 5: \$203.00** **Mon, Jun 9** **Total time: 1hr 30min**  
Total cost: **\$203.00**  
FREE Cancel  
[Select](#)  
Depart 12:16 PM San Diego, CA, United States San Diego Airport (SAN) | Terminal 2  
Arrive 1:46 PM San Francisco, CA, United States San Francisco Airport (SFO) | Terminal 2  
Virgin America 981 Economy Airbus A319 | On-time: 73% 447 mi | 1hr 30min [Seat map](#)  
Earn \$2.03 ORBITZ REWARDS Earn \$20 in bonus Orbucks


APPX190



 Earn **\$2.03**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[Flight details](#)

**\$203.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 **Total time: 1hr 30min**


Depart 9:25 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		Virgin America 953 Economy Airbus A319   On-time: 73% 447 mi   1hr 30min <a href="#">Seat map</a>
Arrive 10:55 AM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 2		



 Earn **\$2.03**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 **Total time: 1hr 30min**


Depart 3:23 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 1715 Economy Boeing 737   On-time: 70% 447 mi   1hr 30min <a href="#">Seat map</a>
Arrive 4:53 PM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		


 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 **Total time: 1hr 34min**

Depart 12:41 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 1424 Economy Boeing 737 447 mi   1hr 34min <a href="#">Seat map</a>
Arrive 2:15 PM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		


 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

Act Fast! Only [3 tickets](#) left at this price!



[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 **Total time: 1hr 37min**

Depart 8:29 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 5493 Economy CRJ 447 mi   1hr 37min <a href="#">Seat map</a>
Arrive 10:06 PM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		


Flight 5493 Operated by SKYWEST DBA UNITED EXPRESS

 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks



[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 **Total time: 1hr 37min**

Depart 9:45 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 6198 Economy CRJ 447 mi   1hr 37min <a href="#">Seat map</a>
Arrive 11:22 AM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		


Flight 6198 Operated by SKYWEST DBA UNITED EXPRESS



 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 **Total time: 1hr 38min**

Depart 6:25 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 1212 Economy Boeing 737 447 mi   1hr 38min <a href="#">Seat map</a>
Arrive 8:03 AM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		


 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks



Act Fast! Only [3 tickets](#) left at this price!

[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9  
Total time: 1hr 38min


Depart 7:22 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 1538 Economy Boeing 737 447 mi   1hr 38min <a href="#">Seat map</a>
Arrive 9:00 AM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		


 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[Flight details](#)

**\$237.00**  
Total cost  
FREE Cancel  
[Select](#)


Mon, Jun 9  
Total time: 1hr 42min

Depart 7:48 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		United Airlines 1042 Economy Boeing 737 447 mi   1hr 42min <a href="#">Seat map</a>
Arrive 9:30 PM	San Francisco, CA , United States San Francisco Airport (SFO)   Terminal 3		



 Earn **\$2.37**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[Flight details](#)

**\$141.00**  
Total cost  
FREE Cancel  
[Select](#)

Leave Mon, Jun 9  
4:38 PM San Diego [SAN](#) 7:24 PM San Francisco [SFO](#) 1 stop 2hr 48min  Delta Air Lines 4504 / 6444  
[Seat map](#)


Flight 4504 Operated by SKYWEST DBA DELTA CONNECTION  
Flight 6444 Operated by COMPASS AIRLINE-DL CONNECTION-DL SHUTTLE

 Earn **\$1.41**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks



Act Fast! Only [5 tickets](#) left at this price!

[Flight details](#)

**\$248.00**  
Total cost  
FREE Cancel  
[Select](#)

Leave Mon, Jun 9  
1:41 PM Carlsbad [CLD](#) 4:29 PM San Francisco [SFO](#) 1 stop 2hr 48min  United Airlines 5474 / 580  
[Seat map](#)


Flight 5474 Operated by SKYWEST DBA UNITED EXPRESS

 Earn **\$2.48**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks



Act Fast! Only [5 tickets](#) left at this price!

[Flight details](#)

**\$141.00**  
Total cost  
FREE Cancel  
[Select](#)

Leave Mon, Jun 9  
1:35 PM San Diego [SAN](#) 4:24 PM San Francisco [SFO](#) 1 stop 2hr 48min  Delta Air Lines 4503 / 6438  
[Seat map](#)


Flight 4503 Operated by SKYWEST DBA DELTA CONNECTION  
Flight 6438 Operated by COMPASS AIRLINE-DL CONNECTION-DL SHUTTLE

 Earn **\$1.41**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks



Act Fast! Only [1 ticket](#) left at this price!

[Flight details](#)

**\$241.00**  
Total cost  
FREE Cancel  
[Select](#)

Leave Mon, Jun 9  
1:30 PM San Diego [SAN](#) 4:45 PM San Francisco [SFO](#) 1 stop 2hr 55min  American Airlines 2579 / 209  
[Seat map](#)

Flight 2579 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE

 Earn **\$2.41**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks


Act Fast! Only [2 tickets](#) left at this price!





[Flight details](#)

**\$263.00**  
Total cost  
FREE Cancel

Leave Mon, Jun 9  
4:05 PM San Diego [SAN](#)  
7:00 PM San Francisco [SFO](#)  
1 stop 2hr 55min

 American Airlines 2620 / 219  
[Seat map](#)

[Select](#) Flight 2620 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE


 Earn **\$2.63**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks

Act Fast! Only [2 tickets](#) left at this price!



[Flight details](#)

**\$557.99**  
Total cost  
FREE Cancel

Leave Mon, Jun 9  
1:50 PM San Diego [SAN](#)  
4:45 PM San Francisco [SFO](#)  
1 stop 2hr 55min

 US Airways 3082  
American Airlines 209  
[Seat map](#)


[Select](#) Change of airlines.  
Flight 3082 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE

 Earn **\$5.58**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks



[Flight details](#)

**\$557.99**  
Total cost  
FREE Cancel

Leave Mon, Jun 9  
4:05 PM San Diego [SAN](#)  
7:00 PM San Francisco [SFO](#)  
1 stop 2hr 55min

 US Airways 3121  
American Airlines 219  
[Seat map](#)

[Select](#) Change of airlines.  
Flight 3121 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE


 Earn **\$5.58**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks

Act Fast! Only [2 tickets](#) left at this price!



[Flight details](#)

**\$562.00**  
Total cost  
FREE Cancel

Leave Mon, Jun 9  
1:50 PM San Diego [SAN](#)  
4:45 PM San Francisco [SFO](#)  
1 stop 2hr 55min

 US Airways 3082 / 209  
[Seat map](#)


[Select](#) Flight 3082 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE  
Flight 209 Operated by American Airlines

 Earn **\$5.62**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks



[Flight details](#)

**\$562.00**  
Total cost  
FREE Cancel

Leave Mon, Jun 9  
4:05 PM San Diego [SAN](#)  
7:00 PM San Francisco [SFO](#)  
1 stop 2hr 55min

 US Airways 3121 / 219  
[Seat map](#)

[Select](#) Flight 3121 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE  
Flight 219 Operated by American Airlines


 Earn **\$5.62**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks

Act Fast! Only [2 tickets](#) left at this price!



[Flight details](#)

**\$568.99**  
Total cost  
FREE Cancel

Leave Mon, Jun 9  
1:50 PM San Diego [SAN](#)  
4:45 PM San Francisco [SFO](#)  
1 stop 2hr 55min


 American Airlines 2579  
US Airways 209  
[Seat map](#)

[Select](#) Change of airlines.  
Flight 2579 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE  
Flight 209 Operated by American Airlines

 Earn **\$5.69**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks

**\$568<sup>99</sup>**  
Total cost  
**FREE Cancel**



**Select**

Leave Mon, Jun 9  
4:05 PM San Diego [SAN](#)  
7:00 PM San Francisco [SFO](#)  
1 stop 2hr 55min  
 American Airlines 2620  
US Airways 219  
[Seat map](#)

Change of airlines.

Flight 2620 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE  
Flight 219 Operated by American Airlines

---

 Earn **\$5.69**  **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

Act Fast! Only **2 tickets** left at this price!

**\$344.00**  
Total cost


FREE Cancel

Select

Leave Mon, Jun 9  
8:40 AM  
San Diego **SAN**

11:45 AM  
San Francisco **SFO**


1 stop  
3hr 5min


 American Airlines 2602 / 2456

[Seat map](#)

Flight 2602 Operated by SKYWEST AIRLINES AS AMERICAN EAGLE

[Flight details](#)

 Earn **\$3.44**

 **ORBITZ REWARDS** Earn **\$20** in bonus Orbucks

[See 25 more result\(s\)](#)

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Showing: 25 of 527 results

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CST 2063530-50; Haw all TAR-5627; low a 644; Nevada 2003-0387; Washington 602-102-724



# **Exhibit KK**

Hotels Flights Vacation Packages Cars Cruises Deals Activities

New!

Welcome

Credit Card

LOWEST PRICE

**\$348.00**

Hide Matrix

	 American Airlines	 US Airways	 Multiple Airlines	 Alaska Airlines
1 stop	\$348.00	\$850.00	\$656.99	
2+ stops	\$352.00	\$401.00	\$406.49	\$821.00

## Refine Results

## Select flight times

## Outbound

Take-off: 6:00 AM - 11:00 PM

Show landing time

## Select stops

Any	
1 stop	\$348
2+ stops	\$352

## Select price range

Any	
\$348-\$540 (83)	
\$540-\$650 (57)	
\$650-\$990 (145)	
\$890-\$730 (48)	
\$730-\$790 (96)	
\$790-\$1,420 (125)	

## Select airlines

Any	
Multiple Airlines	\$406
Alaska Airlines	\$821
American Airlines	\$348
US Airways	\$401

Matching Results: 551

Sort by: Shortest Flight

Additional baggage fees may apply.

Act Fast! Only 3 tickets left at this price!

**\$348.00**Total cost  
FREE Cancel

Select

Mon, Jun 9

Total time: 4hr 45min

Depart 2:05 PM San Diego, CA , United States  
San Diego Airport (SAN)

Stop 1 7:05 PM Dallas, TX , United States  
Dallas-Fort Worth Airport (DFW)

Change of planes. Time between flights: 1hr 0min

Depart 8:05 PM Dallas, TX , United States  
Dallas-Fort Worth Airport (DFW)

Arrive 8:50 PM Wichita Falls, TX , United States  
Sheppard AFB (SPS)

Flight 3773 Operated by ENVOY AIR AS AMERICAN EAGLE

 American Airlines 58  
Economy  
Boeing Douglas MD-80  
1,174 mi | 3hr 0min  
[Seat map](#)

 American Airlines 3773  
Economy  
Embraer RJ145  
118 mi | 0hr 45min  
[Seat map](#)

Eam \$3.48 ORBITZ REWARDS Earn \$20 in bonus Orbucks

**\$656.99**Total cost  
FREE Cancel

Select

Mon, Jun 9

Total time: 4hr 45min

Depart 2:05 PM San Diego, CA , United States  
San Diego Airport (SAN) | Terminal 2

Stop 1 7:05 PM Dallas, TX , United States  
Dallas-Fort Worth Airport (DFW) | Terminal 0

Change of airlines. Time between flights: 1hr 0min

Depart 8:05 PM Dallas, TX , United States  
Dallas-Fort Worth Airport (DFW) | Terminal B

Arrive 8:50 PM Wichita Falls, TX , United States  
Sheppard AFB (SPS)

Flight 8470 Operated by ENVOY AIR AS AMERICAN EAGLE

 American Airlines 58  
Economy  
Boeing Douglas MD-80 | On-time: 80%  
1,167 mi | 3hr 0min  
[Seat map](#)

 US Airways 8470  
Economy  
Embraer RJ145 | On-time: 63%  
112 mi | 0hr 45min  
[Seat map](#)

Eam \$6.57 ORBITZ REWARDS Earn \$20 in bonus Orbucks

**\$680.00**Total cost  
FREE Cancel

Select

Mon, Jun 9

Total time: 4hr 45min

Depart 2:05 PM San Diego, CA , United States  
San Diego Airport (SAN) | Terminal 2

Stop 1 7:05 PM Dallas, TX , United States  
Dallas-Fort Worth Airport (DFW) | Terminal 0

Change of planes. Time between flights: 1hr 0min

Flight 58 Operated by American Airlines

Depart 8:05 PM Dallas, TX , United States  
Dallas-Fort Worth Airport (DFW) | Terminal B

Arrive 8:50 PM Wichita Falls, TX , United States  
Sheppard AFB (SPS)

Flight 8470 Operated by ENVOY AIR AS AMERICAN EAGLE

 US Airways 58  
Economy  
Boeing Douglas MD-80 | On-time: 80%  
1,167 mi | 3hr 0min  
[Seat map](#)

 US Airways 8470  
Economy  
Embraer RJ145 | On-time: 63%  
112 mi | 0hr 45min  
[Seat map](#)



Eam \$6.80 ORBITZ REWARDS Earn \$20 in bonus Orbucks



APPX196

[Flight details](#)

**\$686.99**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 Total time: 4hr 48min

Depart 2:05 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		US Airways 58 Economy Boeing Douglas MD-80   On-time: 80% 1,167 mi   3hr 0min <a href="#">Seat map</a>
Stop 1 7:05 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of airlines. Time between flights: 1hr 0min Flight 58 Operated by American Airlines			
Depart 8:05 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal B		American Airlines 3773 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 3773 Operated by ENVOY AIRAS AMERICAN EAGLE			



 Earn **\$6.87**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks



Act Fast! Only [2 tickets](#) left at this price!

[Flight details](#)

**\$503.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 Total time: 5hr 5min

Depart 8:25 AM	San Diego, CA , United States San Diego Airport (SAN)		American Airlines 1124 First Boeing Douglas MD-80 1,174 mi   3hr 5min <a href="#">Seat map</a>
Stop 1 11:30 AM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)		
Change of planes. Time between flights: 1hr 10min			
Depart 12:40 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)		American Airlines 3401 Economy Embraer RJ145 118 mi   0hr 50min <a href="#">Seat map</a>
Arrive 1:30 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 3401 Operated by ENVOY AIRAS AMERICAN EAGLE			



 Earn **\$5.03**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks



Act Fast! Only [2 tickets](#) left at this price!

[Flight details](#)

**\$656.99**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 Total time: 5hr 5min

Depart 8:25 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		American Airlines 1124 Economy Boeing Douglas MD-80   On-time: 93% 1,167 mi   3hr 5min <a href="#">Seat map</a>
Stop 1 11:30 AM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of airlines. Time between flights: 1hr 10min			
Depart 12:40 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal B		US Airways 8200 Economy Embraer RJ145 112 mi   0hr 50min <a href="#">Seat map</a>
Arrive 1:30 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 8200 Operated by ENVOY AIRAS AMERICAN EAGLE			



 Earn **\$6.57**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks



Act Fast! Only [2 tickets](#) left at this price!

[Flight details](#)

**\$765.00**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 Total time: 5hr 5min

Depart 8:25 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		US Airways 1124 Economy Boeing Douglas MD-80   On-time: 93% 1,167 mi   3hr 5min <a href="#">Seat map</a>
Stop 1 11:30 AM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of planes. Time between flights: 1hr 10min Flight 1124 Operated by American Airlines			
Depart 12:40 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal B		US Airways 8200 Economy Embraer RJ145 112 mi   0hr 50min <a href="#">Seat map</a>
Arrive 1:30 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 8200 Operated by ENVOY AIRAS AMERICAN EAGLE			

 Earn **\$7.65**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks

Act Fast! Only 2 tickets left at this price!

[Flight details](#)

**\$801.99**  
Total cost  
FREE Cancel  
[Select](#)

Mon, Jun 9 Total time: 5hr 5min

Depart 8:25 AM San Diego, CA, United States  
San Diego Airport (SAN) | Terminal 2

Stop 1 11:30 AM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal 0

Change of airlines. Time between flights: 1hr 10min  
Flight 1124 Operated by American Airlines

US Airways 1124  
Economy  
Boeing Douglas MD-80 | On-time: 83%  
1,167 mi | 3hr 5min  
[Seat map](#)

Depart 12:40 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal B

Arrive 1:30 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)

American Airlines 3401  
Economy  
Embraer RJ145  
112 mi | 0hr 50min  
[Seat map](#)

Flight 3401 Operated by ENVOY AIR AS AMERICAN EAGLE

[Eam \\$8.02](#) [ORBITZ REWARDS](#) Earn \$20 in bonus Orbucks

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[Flight details](#)

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Mon, Jun 9 Total time: 5hr 25min

Depart 10:45 AM San Diego, CA, United States  
San Diego Airport (SAN)

Stop 1 3:40 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW)

Change of planes. Time between flights: 1hr 50min

American Airlines 1086  
Economy  
Boeing 757  
1,174 mi | 2hr 55min  
[Seat map](#)

Depart 5:30 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW)

Arrive 6:10 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)

American Airlines 3397  
Economy  
Embraer RJ145  
118 mi | 0hr 40min  
[Seat map](#)

Flight 3397 Operated by ENVOY AIR AS AMERICAN EAGLE

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Mon, Jun 9 Total time: 5hr 25min

Depart 10:45 AM San Diego, CA, United States  
San Diego Airport (SAN) | Terminal 2

Stop 1 3:40 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal 0

Change of planes. Time between flights: 1hr 50min  
Flight 1086 Operated by American Airlines

US Airways 1086  
Economy  
Boeing 757  
1,167 mi | 2hr 55min  
[Seat map](#)

Depart 5:30 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal B

Arrive 6:10 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)

US Airways 8197  
Economy  
Embraer RJ145  
112 mi | 0hr 40min  
[Seat map](#)

Flight 8197 Operated by ENVOY AIR AS AMERICAN EAGLE

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[Flight details](#)

**\$656.99**  
Total cost  
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Mon, Jun 9 Total time: 5hr 25min

Depart 10:45 AM San Diego, CA, United States  
San Diego Airport (SAN) | Terminal 2

Stop 1 3:40 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal 0

Change of airlines. Time between flights: 1hr 50min

American Airlines 1086  
Economy  
Boeing 757  
1,167 mi | 2hr 55min  
[Seat map](#)

Depart 5:30 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal B

Arrive 6:10 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)

US Airways 8197  
Economy  
Embraer RJ145  
112 mi | 0hr 40min  
[Seat map](#)

Flight 8197 Operated by ENVOY AIR AS AMERICAN EAGLE



[Eam \\$6.57](#) [ORBITZ REWARDS](#) Earn \$20 in bonus Orbucks




**\$686.99**  
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[Flight details](#)

Mon, Jun 9 Total time: 6hr 25m in




Depart 10:45 AM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		US Airways 1086 Economy Boeing 757 1,167 mi   2hr 55min <a href="#">Seat map</a>
Stop 1 3:40 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of airlines. Time between flights: 1hr 50min Flight 1086 Operated by American Airlines			
Depart 5:30 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal B		American Airlines 3397 Economy Embraer RJ145 112 mi   0hr 40min <a href="#">Seat map</a>
Arrive 8:10 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 3397 Operated by ENVOY AIR AS AMERICAN EAGLE			



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**\$401.00**  
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Mon, Jun 9 Total time: 6hr 20m in




Depart 12:30 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		US Airways 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 18min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ , United States Sky Harbor Airport (PHX)   Terminal 4		
Change of planes. Time between flights: 1hr 9min			
Depart 2:55 PM	Phoenix, AZ , United States Sky Harbor Airport (PHX)   Terminal 4		US Airways 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of planes. Time between flights: 0hr 45min Flight 1023 Operated by American Airlines			
Depart 8:05 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal B		US Airways 8470 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 8470 Operated by ENVOY AIR AS AMERICAN EAGLE			



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Mon, Jun 9 Total time: 6hr 20m in

Depart 12:30 PM	San Diego, CA , United States San Diego Airport (SAN)   Terminal 2		US Airways 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 18min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ , United States Sky Harbor Airport (PHX)   Terminal 4		
Change of planes. Time between flights: 1hr 9min			
Depart 2:55 PM	Phoenix, AZ , United States Sky Harbor Airport (PHX)   Terminal 4		US Airways 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of airlines. Time between flights: 0hr 45min Flight 1023 Operated by American Airlines			
Depart 8:05 PM	Dallas, TX , United States Dallas-Fort Worth Airport (DFW)   Terminal B		American Airlines 3773 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX , United States Sheppard AFB (SPS)		
Flight 3773 Operated by ENVOY AIR AS AMERICAN EAGLE			

 Earn **\$4.38**  ORBITZ REWARDS Earn **\$20** in bonus Orbucks






**\$446.50**  
Total cost  
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Mon, Jun 9 Total time: 6hr 20m in

Depart 12:30 PM	San Diego, CA , United States San Diego Airport (SAN)		American Airlines 1712 Economy Airbus A321 304 mi   1hr 16min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ , United States Sky Harbor Airport (PHX)		
Change of planes. Time between flights: 1hr 9min Flight 1712 Operated by US Airways			

Depart 2:55 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)		American Airlines 1023 Economy Boeing Douglas MD-83 872 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)		
Change of planes. Time between flights: 0hr 45min			
Depart 8:05 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)		American Airlines 3773 Economy Embraer RJ145 118 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		
Flight 3773 Operated by ENVOY AIR AS AMERICAN EAGLE			
 Earn <b>\$4.47</b>  ORBITZ REWARDS Earn <b>\$20</b> in bonus Orbucks			

		<a href="#">Flight details</a>	
<b>\$495.99</b>	Mon, Jun 9	Total time: 6hr 20min	
Total cost FREE Cancel			
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Depart 12:30 PM	San Diego, CA, United States San Diego Airport (SAN)   Terminal 2		US Airways 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 16min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		
Change of airlines. Time between flights: 1hr 9min			
Depart 2:55 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		American Airlines 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of planes. Time between flights: 0hr 45min			
Depart 8:05 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal B		American Airlines 3773 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		
Flight 3773 Operated by ENVOY AIR AS AMERICAN EAGLE			
 Earn <b>\$4.96</b>  ORBITZ REWARDS Earn <b>\$20</b> in bonus Orbucks			

		<a href="#">Flight details</a>	
<b>\$709.99</b>	Mon, Jun 9	Total time: 6hr 20min	
Total cost FREE Cancel			
<a href="#">Select</a>			
Depart 12:30 PM	San Diego, CA, United States San Diego Airport (SAN)   Terminal 2		US Airways 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 16min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		
Change of airlines. Time between flights: 1hr 9min			
Depart 2:55 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		American Airlines 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal 0		
Change of airlines. Time between flights: 0hr 45min			
Depart 8:05 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal B		US Airways 8470 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		
Flight 8470 Operated by ENVOY AIR AS AMERICAN EAGLE			
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		<a href="#">Flight details</a>	
<b>\$709.99</b>	Mon, Jun 9	Total time: 6hr 20min	
Total cost FREE Cancel			
<a href="#">Select</a>			
Depart 12:30 PM	San Diego, CA, United States San Diego Airport (SAN)   Terminal 2		American Airlines 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 16min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		
Change of planes. Time between flights: 1hr 9min			
Flight 1712 Operated by US Airways			
Depart 2:55 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		American Airlines 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min
Stop 2 7:20 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal 0		



Change of airlines. Time between flights: 0hr 45min [Seat map](#)

Depart 8:05 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal B		US Airways 8470 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		


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**\$709.99**  
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Mon, Jun 9 Total time: 6hr 20min

Depart 12:30 PM	San Diego, CA, United States San Diego Airport (SAN)   Terminal 2		American Airlines 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 16min <a href="#">Seat map</a>
Stop 1 1:48 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		



Change of airlines. Time between flights: 1hr 9min  
Flight 1712 Operated by US Airways

Depart 2:55 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		US Airways 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal 0		

Change of planes. Time between flights: 0hr 45min  
Flight 1023 Operated by American Airlines

Depart 8:05 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal B		US Airways 8470 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		


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Mon, Jun 9 Total time: 6hr 20min

Depart 12:30 PM	San Diego, CA, United States San Diego Airport (SAN)   Terminal 2		American Airlines 1712 Economy Airbus A321   On-time: 100% 303 mi   1hr 16min <a href="#">Seat map</a>
Stop 1 1:46 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		



Change of airlines. Time between flights: 1hr 9min  
Flight 1712 Operated by US Airways

Depart 2:55 PM	Phoenix, AZ, United States Sky Harbor Airport (PHX)   Terminal 4		US Airways 1023 Economy Boeing Douglas MD-83   On-time: 80% 865 mi   2hr 25min <a href="#">Seat map</a>
Stop 2 7:20 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal 0		

Change of airlines. Time between flights: 0hr 45min  
Flight 1023 Operated by American Airlines

Depart 8:05 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)   Terminal B		American Airlines 3773 Economy Embraer RJ145   On-time: 63% 112 mi   0hr 45min <a href="#">Seat map</a>
Arrive 8:50 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		

Flight 3773 Operated by ENVOY AIR AS AMERICAN EAGLE

 Earn \$7.40  ORBITZ REWARDS Earn \$20 in bonus Orbucks

**\$348.00**  
Total cost  
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Mon, Jun 9 Total time: 6hr 25min

Depart 9:45 AM	San Diego, CA, United States San Diego Airport (SAN)		American Airlines 1364 Economy Boeing 737 1,174 mi   2hr 55min <a href="#">Seat map</a>
Stop 1 2:40 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)		

Change of planes. Time between flights: 2hr 50min

Depart 5:30 PM	Dallas, TX, United States Dallas-Fort Worth Airport (DFW)		American Airlines 3397 Economy Embraer RJ145 118 mi   0hr 40min <a href="#">Seat map</a>
Arrive 6:10 PM	Wichita Falls, TX, United States Sheppard AFB (SPS)		

Flight 3397 Operated by ENVOY AIR AS AMERICAN EAGLE

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Mon, Jun 9

Total time: 0hr 25min

Depart 12:25 PM San Diego, CA, United States  
San Diego Airport (SAN)  
Stop 1 Dallas, TX, United States



American Airlines 1344  
Economy  
Boeing Douglas MD-83  
1,172 mi | 1 Stop Flights

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San Diego, CA (SAN) to Wichita Falls, TX (SPS)

Mon, Jun 9, 2014

Depart 8:05 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW)  
Arrive 8:00 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)



American Airlines 3773  
Economy  
Embraer RJ145  
118 mi | 0hr 45min  
[Seat map](#)

Flight 3773 Operated by ENVOY AIR AS AMERICAN EAGLE

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**\$650.00**

Total cost

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Mon, Jun 9

Total time: 0hr 25min

Depart 9:45 AM San Diego, CA, United States  
San Diego Airport (SAN) | Terminal 2  
Stop 1 2:40 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal D



US Airways 1364  
Economy  
Boeing 737 | On-time: 85%  
1,167 mi | 2hr 55min  
[Seat map](#)

Change of planes. Time between flights: 2hr 50min

Flight 1364 Operated by American Airlines

Depart 5:30 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal B  
Arrive 8:10 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)



US Airways 8197  
Economy  
Embraer RJ145  
112 mi | 0hr 40min  
[Seat map](#)

Flight 8197 Operated by ENVOY AIR AS AMERICAN EAGLE

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[Flight details](#)

**\$656.99**

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Mon, Jun 9

Total time: 0hr 25min

Depart 9:45 AM San Diego, CA, United States  
San Diego Airport (SAN) | Terminal 2  
Stop 1 2:40 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal D



American Airlines 1364  
Economy  
Boeing 737 | On-time: 80%  
1,167 mi | 2hr 55min  
[Seat map](#)

Change of airlines. Time between flights: 2hr 50min

Depart 5:30 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal B  
Arrive 8:10 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)



US Airways 8197  
Economy  
Embraer RJ145  
112 mi | 0hr 40min  
[Seat map](#)

Flight 8197 Operated by ENVOY AIR AS AMERICAN EAGLE

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**\$656.99**

Total cost

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Mon, Jun 9

Total time: 0hr 25min

Depart 12:25 PM San Diego, CA, United States  
San Diego Airport (SAN) | Terminal 2  
Stop 1 5:25 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal D



American Airlines 1344  
Economy  
Boeing Douglas MD-83 | On-time: 93%  
1,167 mi | 3hr 0min  
[Seat map](#)

Change of airlines. Time between flights: 2hr 40min

Depart 8:05 PM Dallas, TX, United States  
Dallas-Fort Worth Airport (DFW) | Terminal B  
Arrive 8:00 PM Wichita Falls, TX, United States  
Sheppard AFB (SPS)



US Airways 8470  
Economy  
Embraer RJ145 | On-time: 83%  
112 mi | 0hr 45min  
[Seat map](#)

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